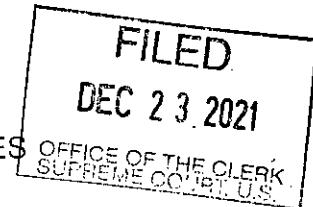


No. 21-6994

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES



FERNANDO LARA — PETITIONER
(Your Name)

vs.

United States of America — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals for the Fourth Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

FERNANDO LARA
(Your Name)

FEDERAL CORRECTIONAL INSTITUTION
BENNETTSVILLE P. O. Box 52020
(Address)

BENNETTSVILLE, SC 29512
(City, State, Zip Code)

NA Incarcerated Person
(Phone Number)

QUESTION(S) PRESENTED

Whether Mr. Lara's Conviction the result of an illegal
Search of his Cell Phone Seized during a Search
incident to his arrest?

LIST OF PARTIES

All parties appear in the caption of the case on the cover page.

All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

RELATED CASES

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STATUTES AND RULES

4th Amendment

OTHER

IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix A to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

The opinion of the United States district court appears at Appendix _____ to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

JURISDICTION

For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was September 24, 2021.

No petition for rehearing was timely filed in my case.

A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A _____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

For cases from **state courts**:

The date on which the highest state court decided my case was _____. A copy of that decision appears at Appendix _____.

A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A _____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

(2.)

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Amendment 4 Unreasonable Searches and Seizures.

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable Searches and Seizures, shall not be violated, and no Warrants shall issue, but upon Probable Cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

STATEMENT OF THE CASE

The Case against Mr. Fernando Lara began after a traffic stop in Anderson, South Carolina. Mr. Lara was a passenger in a vehicle being driven by Angela Skelton. Prior to the traffic stop Angela Skelton was being investigated by a DEA Task Force.

During the course of the investigation agents tracked Ms. Skelton geolocation data through her cell phone to Georgia where she picked up Mr. Lara. After making several stops the pair headed to Anderson, South Carolina. Once Ms. Skelton made it back to Anderson, South Carolina officers conducted a traffic stop. After the stop officers questioned the two until another officer arrived with a police dog. Upon arrival the police dog conducted a free air sniff of the vehicle and gave a positive alert to the ~~odor~~ of narcotics. Officers then searched the vehicle and found a small bag of meth inside a purse, and on the back seat found a large quantity of methamphetamine inside a fruit roll-up box on the back seat. Also found was a firearm in the passenger side floorboard in a grocery bag.

Prior to placing Mr. Lara in the rear of the police car he was searched; however it wasn't until he was driven to the Sheriff's office and removed from the vehicle that Mr. Lara's cell phone was discovered in the rear seat.

Officers also removed from Mr. Lara's inner jacket a bag of U.S. Currency.

On February 12, 2019, the Grand Jury for the District of South Carolina returned a 25 Count Superseding indictment against Mr. Lara and Various other defendants.

Subsequently, on June 17, 2019, the Grand Jury returned a twenty five Count Second Superseding Indictment against Mr. Lara. He went to trial on the second Superseding indictment with no changes to Counts 1, 24, and 25 in which he was named a defendant. Count 1, charged: Conspiracy to possess with intent to distribute and did distribute a quantity of a mixture or substance containing a detectable amount of methamphetamine, a Schedule II Controlled Substance, in violation of 21 U.S.C. § 841(a)(1) and 841(b)(1)(A). Count 24 charged: Possession with intent to distribute 500 grams or more of a mixture or substance containing a detectable amount of methamphetamine, a Schedule II Controlled Substance, all in violation of 21 U.S.C. § 841(a)(1) and 841(b)(1)(A) and 18 U.S.C. § 2. Count 25 charged: Possession of a firearm in furtherance of a drug trafficking crime in violation of 18 U.S.C. § 924(c).

Throughout trial Mr. Lara maintained his innocence, his finger prints were not found on any item seized.

Prosecutors presented witnesses, all under some form of prosecution, and several of the text

Obtained illegally and without a warrant from Mr. Lara Cell phone. Nothing connected Mr. Lara to the crimes charged but the cell phone records that were obtained without a warrant. Considering the significant privacy interest involved, the police are generally not permitted to search digital information on a cell phone seized from an arrested person, unless an exception to the warrant requirement such as exigent circumstances applies. No exigent circumstances applied. Therefore Mr. Lara's conviction was the result of an illegal search and his whole conviction should be overturned.

REASONS FOR GRANTING THE PETITION

Within the last 6 or 7 years this Court has accepted two cases that dealt with similar issues here. See ~~Ob~~ Carpenter v. United States, No. 16-402, and Riley v. California, 573 U.S. 373 (2014). This Court has took care to of governmental action taken in access of what their authority would allow. But the government countless of times continue to ignore several of the Court's rulings that results in thousands of defendants being unlawfully convicted and sentence to decades in prison often abandon by counsel, and hopefully to be in the 1% of cases accepted by this Court to obtain some form of relief. Mr. Lara is one

of those defendant's and he prays for this Court to accept his case in order to continue to bring some checks and balances to an unchecked government that continues to violate individuals fourth Amendment rights in any way it seems fit.

CONCLUSION

For the reasons stated above Mr. Lara Prays for the Court to Grant such case.

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Fernando Lara

Date: 12-23-21

Resubmitted on 1-20-22

1/s/ Fernando Lara