

No. 21-6996

In The
Supreme Court Of The United States

Robert Stivers - Petitioner

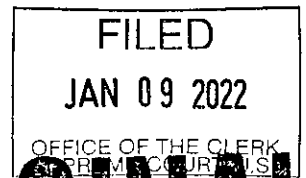
VS

Anthony Wills - Respondent

On Petition For A Writ Of Certiorari To The
Appellate Court Of Illinois, Fifth District

Petition For Writ Of Certiorari

Robert Stivers
IDOC# Y28169
Menard Correctional Center
P.O. Box 1000
Menard, IL 62259



ORIGINAL

Question Presented

Is a suspect's Constitution Amendments V; as well as, XIV rights violated when a clear and unambiguous invocation to remain silent is ignored? Additionally, would offers of specific benefits related to the case, and to what extent police may use promises and lies to extract a confession from a suspect before rendering it involuntary, unreliable, and violating their Constitution Amendments V; as well as, XIV rights?

Parties

Petitioner, pro se:

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Menard, IL 62259

For Respondent Anthony Wills:

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62701

Prior Opinions And Orders

Robert Stivers was convicted of aggravated battery and first degree murder; Christian County, Illinois, case No. 16-CF-42

Direct Appeal, affirmed; People v. Stivers, 2021 IL App (5th) 180338-U

Leave to Appeal to The Illinois Supreme Court, Denied; 127377

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Illinois Supreme Court letter informing Petitioner was denied for
Leave to Appeal.

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Basis Of Jurisdiction

Seeking United States Supreme Court review of the Illinois Appellate Court, Fifth District affirmation of Petitioner's conviction. The jurisdiction of this Court is invoked under 28 U.S.C. § 1257(a).

Constitutional Provisions And Statutes

United States Constitution, Amendment V, and, XIV

Illinois code pursuant to 725 ILCS 5/115-74 (West 2016)

Statement of Facts

Robert Stivers was charged with aggravated battery of a child under the age of 13, and first degree murder, following the death of his four-month-old son, C.L. (C.35, 227; B. 48).

Stivers was convicted of both counts following a jury trial, and sentenced to 50 years in prison. (C.666-67, 708).

Defense Motion to Suppress Statements

Defense counsel filed a motion to suppress statements arguing that Stivers had invoked his right to silence, and that law enforcement used offers of leniency to extract a confession. (C.139-48). The trial court found that Stivers made three potential invocations of his right to remain silent. The first when Stivers said, "Can I be done answering questions because you keep asking me the same questions." The second came later, when Stivers said, "Can I be done answering questions now," and Special Agent John Yard responded, "No." The last came near the end of the interrogation, when Stivers asked again if he could be done answering questions. (C.312-18).

The court found that the second statement was an invocation of the right to silence that Agent Yard did not scrupulously honor. Thus, everything after this portion of the video, including Stivers' demonstration with a doll as to how he squeezed and shook C.L., were suppressed. (C.312-18). The previous statements, in which Stivers acknowledged squeezing and shaking C.L., were still admitted. The court maintained that Agent Yard did not make any promises of leniency. (C.312-18).

State's Motion to Admit Prior Bad Acts

The State sought to admit numerous prior bad acts allegedly committed by Stivers, under 725 ILCS 5/115-7.4(a), which allows evidence of other offenses of domestic violence. (C.504). Defense counsel objected, arguing that none of the incidents qualified as domestic violence, and that none of the incidents were similar to the allegations against Stivers, that he struck and shook C.L. (P. 578-80). The court ultimately allowed four of the incidents.

Defense Motion to Reclude Text Messages Between Stivers and Riley

Stivers was in the early stages of a romantic relationship with 16-year-old Khatlynn Riley. The court allowed the State to use Facebook messages between Stivers and Riley from several days before C.L. was hospitalized to the night of Stivers's arrest. (P. 931-43).

Jury Trial

Breanna Livingston, C.L.'s mother, testified regarding her relationship with Stivers, which included a history of angry and sometimes violent encounters. (P. 1237-47). Kendra Grammar, who dated Stivers's brother David and lived in the home of Stivers's mother, Gladys, also testified regarding Stivers's prior behavior with the family. (P. 1179-81).

Dr. Roger McClintock, C.L.'s regular pediatrician, testified that he had last seen C.L. on January 21, 2016, after he exhibited cold symptoms. McClintock diagnosed C.L. with either bronchiolitis or pneumonia. C.L.'s illness was "mild," but McClintock acknowledged that the condition could cause problems if it became severe. (P. 1326-33).

On the morning of Friday, February 5, 2016, Breanna fed and changed C.L. who was "perfectly okay." (B.1248). Stivers came over around 11:30 a.m. to watch C.L. and her middle son, A.L., who was a toddler at the time. (B.1248-49).

Robert Meeks, Breanna's downstairs apartment neighbor, testified that he was home on February 5. (B.1297). At some point between 11:30 a.m. and 1:30 p.m., he heard C.L. cry for about half an hour, then stop. (B.1297). According to Meeks, Stivers's mother Gladys, and her boyfriend, Gary Carrell, came over at around 11 or 11:30, and again around 1 or 1:30, after C.L. had stopped crying. (B.1300).

Gladys Stivers testified that around noon on February 5, Stivers asked her to bring him some cigarettes, and to help him take the kids over to her house. (B.1189, 1192). She and Gary took the cigarettes over, and they all returned with the children to her house. (B.1191). Gladys testified that later in the afternoon, C.L. started shaking as if he was having a seizure. (B.1194-95).

Gary Carrell also recalled taking cigarettes to Stivers, who was holding C.L. on his shoulder. (B.1213). Stivers told Gary that he wanted to talk to Gladys, who had remained in the car. (B.1213-14). Gary went down to the car, and told Gladys that Stivers wanted to see her. Gladys went upstairs and was with Stivers for 10 to 15 minutes. (B.1214). They came back downstairs with the kids, and they all went back to Gladys's house. Gary said he never saw anything wrong with C.L. that day, "None at all." (B.1220).

Neighbor Meeks corroborated Gary's recollection, that Gary went upstairs and came back down, and then Gladys went upstairs

and came back down. (R. 1298). Meeks testified that when Gary came down, he "grabbed his head and shook it." (R. 1299). When Gladys came back down, "they both talked for a few minutes and they both grabbed their head and it was like 'I can't believe this happened,' you know, you could tell they look like something happened." (R. 1299-1300).

Around 3:30 p.m. on February 5, Stivers texted with Katlynn Riley, a 16-year-old girl with whom Stivers had started a relationship. (R. 1280, 1434). The State was allowed to introduce several days of text messages between Stivers and Riley, going back to February 2. (R. 1427-33).

Around 6:40 p.m., Stivers called his father, Roger Stivers, and asked him to come to Gladys's house to look at C.L. who was acting strangely. (R. 1224). When Roger first went over, he did not notice anything wrong. But upon closer inspection, he saw that C.L. "looked like he was having a little bit of a hard time breathing, and had 'developed a lazy eye or a wandering eye.'" (R. 1226). They took C.L. to the local Papa Community Hospital. (R. 1226). Just after 7:00 p.m., Stivers texted Breanna that she needed to "come home I gotta take [C.L.] to hospital hes actin rly weird." (R. 1416). Breanna arrived at the hospital around 8:00 p.m. (R. 1307).

Dr. Demosthenes Asuncion was the ER physician at Papa Community Hospital that evening. C.L. was "limp, nonresponsive, and eyes were deviated to the right." (R. 1307). C.L.'s appearance was "concerning," but he did not know what was wrong with C.L. right away. (R. 1307). C.L. had no "obvious injuries" after multiple

CT scans and blood work. (P.1309). The CT scans showed "mild" swelling in the brain, but no acute bleeding or any fractures. (P.1318-19). Ultimately, C.L. needed more specialized care, and was accepted for transfer to Cardinal Glennon Children's Hospital in St. Louis, MO. (P.1310-12).

Stivers left the hospital after Breanna arrived. (P.1251). Prior to Breanna's arrival, and after he left, Stivers messaged Riley on Facebook about meeting up later that evening. (P.1435-36). Between 8:00 and 10:00 p.m., Stivers also texted with Breanna, who kept him posted on C.L.'s condition. Around 11:30 p.m., Breanna texted Stivers that C.L.'s "heart dropped," and that "there way more wrong with him!!!" (P.1418-19). At that time, Stivers had arrived at a party to see Riley. (P.1437). Riley testified that Stivers came to the party to tell her that he could not come, and that he only stayed about 25 minutes. (P.1286). While Stivers was at the party, Breanna repeatedly texted him about how C.L. was "scaring" her and that she was having a panic attack. (P.1419-23). Stivers told her to "calm down," and reassured her that he would return to the hospital. (P.1423).

C.L. was transported by helicopter to Cardinal Glennon Children's Hospital around 11:30 p.m. (P.1251). Stivers, his father Roger, Roger's girlfriend Heather, and Breanna, drove to St. Louis just before 1:00 a.m., and arrived between 2:00 and 3:00 a.m. (P.1252). En route, Stivers texted Riley, "U made my Nite with those Kisses; D; *." (P.1437)

Dr. Renee Markowski was the pediatrician in the ER at

Cardinal Glennon when C.L. arrived. C.L. appeared to be comatose, and did not require much sedation because "his neurologic function was markedly impaired." (P. 1677-78). Dr. Markowski noted bruises on C.L.'s chest wall, and small red dots around his eyes and face, likely due to increased crying or force. (P. 1680). X-rays showed fractures at different stages of healing on both sides of his ribs. (P. 1683-84). C.L. had severe, bilateral retinal hemorrhages. (P. 1688). Based on the above findings, Dr. Markowski believed that C.L. had been physically abused, and filled out a medical affidavit saying so, which alerted authorities in Pana to a case of possible child abuse. (P. 1689-93).

The Pana Police Department requested assistance from the Illinois State Police after they were made aware of the case. (P. 981-83). ISP Special Agent John Yard was assigned to investigate around 5:30 a.m. on the morning of February 6. (P. 983). Yard initially interviewed family and household members in Pana. (P. 989). Just before 1:00 p.m., Stivers texted Gladys and asked, "Well, what happen?" Gladys said that she was still "waiting for Gary." Around 2:30 p.m., Stivers asked Gladys, "Did u tell them what I did." (P. 1443).

After completing the above interviews in Pana, Yard traveled to St. Louis to meet with other investigators, then went to Cardinal Glennon. Yard first interviewed Breanna, which lasted about two hours. (P. 991). Yard then interviewed Stivers in the presence of Trooper Erica Raciak, Sergeant Matt Weller, and DCFS Investigator Antonio Hampton. (P. 998). Yard and Raciak were both armed. (P. 1039).

Initially, Stivers told Yard and the others that C.L. was fine all day until the late afternoon, when he woke from a nap acting like he was in pain, and was stiff and grunting. (St. Ex. 7, Disk 1, Part 1, 00:44-06:59). Stivers repeatedly denied ever hurting his son. (St. Ex. 7, Disk 1, Part 3, 12:58, 13:10). On camera, officers measured Stivers' hands. (St. Ex. 7, Disk 1, Part 3, 06:37). They told him his hands matched the bruises, and that they would be able to get his fingerprints from underneath C.L.'s skin during the autopsy. (St. Ex. 7, Disk 1, Part 3, 13:44; Disk 2, Part 1, 00:18). Stivers still denied shaking or squeezing his son. (St. Ex. 7, Disk 2, Part 1, 00:50, 03:24).

At one point, Stivers said, "Can I be done answering questions now because you're asking me the same questions over and over and I just told you the truth." (St. Ex. 7, Disk 2, Part 1, 12:38). In response, Weller yelled and cursed at Stivers that "your kid is gonna f**king die" because "someone kicked the s**t out of him." (St. Ex. 7, Disk 2, Part 1, 12:49). Weller said for Stivers not to "act like you are being encroached upon." (St. Ex. 7, Disk 2, Part 1, 13:15). Following that exchange, Yard suggested this was an "opportunity" for Stivers to see if he would get a probationable offense or homicide. (St. Ex. 7, Disk 2, Part 1, 15:13). When Stivers asked to go see C.L., Yard responded, "Let's talk and I absolutely 100% promise you that we will let you see your son," and that he would not handcuff Stivers in front of his family. (St. Ex. 7, Disk 2, Part 1, 19:36-48). Stivers continued to deny involvement, and Yard responded that he had "no doubt in my mind that you did it." (St. Ex. 7, Disk 2, Part 2, 04:47). Yard asked if he would "be a man" and "own up" to his mistakes, and Stivers

responded, "What am I gonna get out of this?" (St. Ex. 7, Disk 2, Part 2, 07:06-11). Specifically, Stivers wanted to know if there was "anything I'm not gonna serve jail time with." (St. Ex. 7, Disk 2, Part 2, 07:36). Yard said it depended on the version of events he gave. Stivers asked what would happen to him "right now" if he admitted involvement. (St. Ex. 7, Disk 2, Part 2, 07:42). Yard said he would "keep his promise" to allow him to see C.L., and that he would get arrested. (St. Ex. 7, Disk 2, Part 2, 11:25). Stivers asked for Yard to make him a deal, but Yard responded that he could not do so. (St. Ex. 7, Disk 2, Part 2, 12:42). Stivers still asked to be arrested the next day so he could spend time with Breanna and C.L. Stivers said he would "take the blame for all this," (St. Ex. 7, Disk 2, Part 2, 12:49). Stivers still asked to be arrested the following day, and said he would "tell you the truth about everything" if so. Yard asked if "the truth" was going to be what I think happened?" Stivers said, "Probably, yeah." (St. Ex. 7, Disk 2, Part 2, 16:06-14).

After a break, Yard said that the hospital would not allow him to stay overnight with Breanna and C.L., and that they could not arrest him the next day. Stivers said, "What the best offer you got then?" (St. Ex. 7, Disk 2, Part 3, 01:19). Yard said if he talked, he would be allowed to see C.L. and would not be arrested in front of his family. Stivers then said he "may have got a little aggravated with him. And I may have squeezed him a little too tight." Yard told Stivers that the "way this works" is that there are no "mays." (St. Ex. 7, Disk 2, Part 3, 01:40-02:14). Stivers then said "Okay, I got a little aggravated. Probably because he was crying." Yard again told

Stivers not to say "probably." Stivers responded, "Because he was crying." (St. Ex. 7, Disk 2, Part 3, 02:20-32). Stivers said it happened on Friday, right before his mom arrived at the apartment, and that is why he asked to speak to Gladys alone at that time.

Stivers said, "I squeezed him a little too tight. And gave him a little shake." Stivers said he did not do it intentionally, but was frustrated "because he was crying and wouldn't stop." (St. Ex. 7, Disk 2, Part 3, 02:32-04:09).

On cross-examination, Yard acknowledged that he lied to Stivers multiple times throughout the interrogation. (R. 1028, 1042, 1048, 1050). For example, he told Stivers that they had eliminated everyone else as suspects when they had not yet done so, he lied and told Stivers that the bruises C.L. had matched Stivers' hands, and that his handprints can leave impressions under the skin that they can find during an autopsy. Yard acknowledged that Stivers asked to see C.L., but denied promising him he could see C.L. if he talked. (R. 1052).

After the interview, Yard confiscated Stivers' phone, and obtained a search warrant to search its contents. (R. 1018). Stivers was then allowed to see C.L. Paciak accompanied Stivers to C.L.'s room. Stivers was in the room with C.L. for "maybe two minutes." (R. 1069). As Stivers left the room, he encountered Breanna, and law enforcement guided them into a conference room. Breanna demanded to know what was going on. Stivers told her he was being arrested on an outstanding warrant. (R. 1070). She then asked him if he had hurt C.L. Stivers initially denied hurting C.L. but then said he

admitted doing so to the police because they had enough evidence to "put it on him," and that he wanted to say goodbye to her and C.L. (R. 1070). Angered, Breanna asked him why he would admit to it if he did not do it. Stivers got angry in return, and admitted he hurt C.L. (R. 1070). As Breanna started screaming, Stivers said that was a lie and he never hurt C.L. Breanna was then escorted from the room. (R. 1070).

C.L. succumbed to his injuries on February 8, at 12:16 am. Dr. Jane Turner conducted C.L.'s autopsy. Turner noted that C.L. had bruises to his face, including his jaw and forehead. (R. 1474). The blood in C.L.'s brain was sufficient to have caused his death; she considered it to be a "closed head injury." (R. 1484). Additionally, a microscopic inspection of C.L.'s brain showed diffuse axonal injury, which disrupts brain function. (R. 1484, 1515, 1525). Turner noted that diffuse axonal injury cannot come from swelling alone; it comes from shaking or impact and is the result of acceleration and deceleration. (R. 1484, 1515, 1525).

Dr. Juliette Scattlebury assisted Turner in performing the autopsy. Scattlebury's testimony largely consisted of describing and explaining the autopsy photos. (R. 1649, 1652-61).

The State also presented the testimony of Dr. Channing S. Petrak as an expert in child abuse pediatrics. (R. 1549). Petrak as an expert, concurred with the other State medical witnesses that C.L. had healing rib fractures. (R. 1555-58). According to Petrak, C.L. did not display the presence of rickets, and he "clearly sustained a severe head injury." (R. 1560, 1565).

Dr. Mariateresa Tersigni-Tarrant, a forensic anthropologist, reviewed C.L.'s case after the autopsy. Tersigni-Tarrant testified that the 11th rib on the right side was an old, healing fracture. A "lot of force" had to have been used to cause this fracture. (R. 1748, 1750). According to Tersigni-Tarrant, C.L. did not have rickets, which would be evident throughout the body. (R. 1758).

Jeffrey Brown, a Deputy Sheriff with the Christian County Sheriff's Office, testified regarding phone calls made between Stivers and Gladys while Stivers was incarcerated in the Christian County Jail. (R. 1729-37). During the call, Gladys said, "I understand what you're saying, you want me to go to the police and say that I did this and I didn't hurt that baby and that I will have to say this or else you're going to take the plea bargain." (R. 1083).

The defense called Dr. David Ayoub as a radiologist expert in metabolic bone disease. (R. 1826). Ayoub testified that what the State's experts believed were healing fractures, was actually evidence of rickets. (R. 1830).

Dr. Kenneth Monson testified for the defense as an expert in biomechanics. (R. 1967). Analogizing to automotive safety testing, Monson testified that generally, force below 50 Gs would not cause subdural hematoma. (R. 1978). According to Monson, C.L.'s injuries could not have been produced through shaking alone. (R. 2005).

Dr. Thomas William Young, an expert in the field of forensic pathology, also testified for the defense. (R. 2039). Young testified that the bleeding in C.L.'s head was due to the cessation of breathing and then breathing resumed. (R. 2045). Retinal hemorrhages are a known complication

of being without oxygen for a period of time in infants, as pressure increases. (P. 2053). Young did not have an opinion about C.L.'s cause of death, but maintained that a lack of oxygen can lead to hematomas and hemorrhages.

Breanna Livingston also testified for the defense, admitting that she and Stivers had intercourse a day or two prior to the incident. (P. 2007). They fought afterwards because Breanna believed she was being used for sex. (P. 2009).

The State called Tersigni-Tarrant in rebuttal. According to her, Ayoub's beliefs regarding rickets are not generally accepted in the scientific community. (P. 2099). Tersigni-Tarrant maintained that she had never seen a child die, directly or indirectly, as a result of rickets. (P. 2101). Tersigni-Tarrant then stated that histology was normal, and did not show evidence of rickets. (P. 2106).

The defense called Ayoub in surrebuttal. Ayoub did not recall seeing any test results on histology in the materials he was given. (P. 2149). Ayoub maintained that rickets is a disease in growth plates, and would not be present in every rib. (P. 2151).

The jury returned guilty verdicts for murder and aggravated battery to a child. (P. 2316-29, 2332).

Post-Trial Motions and Sentencing

In ruling on the motion for a new trial, the court affirmed its previous evidentiary rulings, and denied the motion for a new trial. (P. 2376). The Court sentenced Stivers to 50 years in prison. (P. 2433).

Direct Appeal

On direct appeal, Stivers argued as follows:

(1) That the trial judge erred when he refused to suppress the entirety of Robert Stivers's videotaped interrogation statement. The police failed to scrupulously honor Stivers's right to remain silent, and his statement was not made voluntarily.

(2) The trial court abused its discretion by allowing the State to introduce testimony regarding other acts of domestic violence, where those incidents did not resemble the acts alleged in this case, and therefore were substantially more prejudicial than probative.

(3) The Facebook messages between Robert Stivers and Kaitlyn Riley between February 2, and February 4, 2016, were improperly admitted where they were not relevant to prove the charged offense.

In an unpublished order, the appellate court found that Stivers did not unambiguously and unequivocally invoke his right to remain silent, that his statements were voluntary, and that the other acts of domestic violence were properly admitted. *Stivers*, 2021 IL App (5th) 180338-U, ¶1. While the court agreed with the Stivers that the Facebook messages were admitted in error, it found that the error was harmless. *Id.* Stivers did not file a petition for rehearing.

Illinois Supreme Court

Robert Stivers Petitioned for Leave to Appeal involving the constitutional issues presented on Direct Appeal. On 11/03/21, the Illinois Supreme Court denied the petition.

Argument

This Court should grant review to provide guidance to lower courts as to whether a suspect's reasons for wanting to invoke his right to silence can invalidate an otherwise clear and unambiguous invocation of his right to remain silent. Additionally, review is warranted to determine whether offers of specific benefits related to the case, and to what extent police may use promises and lies to extract a confession from a suspect rendering it involuntary and/or unreliable.

Before questioning suspects in custody, law enforcement officials must inform suspects that: 1) they have the right to remain silent; 2) their statements may be used against them at trial; 3) they have the right to the presence of an attorney during questioning; and, 4) if they cannot afford an attorney, one will be appointed for them. These rules were established in *Miranda v. Arizona*, 384 U.S. 436, 448-50, 455, 86 S.Ct. 1602, 16 L.Ed.2d 694 (1966), and are protections to the Fifth Amendment privilege against self-incrimination. Miranda warnings must be given when a suspect is both in custody and subject to a government interrogation. To introduce a defendant's statements at trial made in response to a custodial interrogation, the prosecution must demonstrate either that the statements were obtained in compliance with Miranda or, that some exception applies.

During his interrogation, Robert Stivers stated, "Can I be done answering questions now, because you're just asking me the same questions over and over and I just told you the truth."

(St. Ex. 7, Disk 2, Part 1, 12:38). In response, Sergeant Matt Weller shouted and cursed at Stivers, and told him not to "act like you are being encroached upon." (St. Ex. 7, Disk 2, Part 1, 12:49-13:15). See *Illinois v. Perkins*, 496 U.S. 292, 297, 110 S.Ct. 2394, 110 L.Ed.2d 243 (1990). "The court reasoned that custody and interrogation" may create mutually reinforcing pressures" that can overcome the suspect's will. Furthermore, Stivers argued on direct appeal that this was a clear and unambiguous invocation of his right to silence that the police did not scrupulously honor. Stivers also argued that his statement was not voluntary, because the police made explicit promises to Stivers that he would be able to see his dying son if he confessed, attacked his denials with false and misleading statements, John Yarol told him what to say at times, and ignored his request to end the questioning.

The very purpose of *Miranda* safeguards is to allow a suspect to be free of trickery and the coercive forces inherent in custodial interrogation. It is interesting to note that the statements at issue here came just over ten minutes after officers lied to Stivers about being able to get "reverse ridge impressions" beneath the skin during an autopsy. (St. Ex. 7, Disk 2, Part 1, 00:18). *Miranda* speaks directly to the officers' conduct here, which is for the interrogator to "display an air of confidence in the suspect's guilt and... maintain only an interest in confirming certain details." *Miranda*, 384 U.S. at 450. *Miranda*'s assurance that, "if the suspect indicates in any manner, at any time prior to or during questioning, that he wishes to remain silent, the interrogation must cease" would become a

rule devoid of force, should the appellate court's reasoning in this case be condoned.

Therefore, courts should not be concerned with why a particular defendant wants to invoke his constitutional rights during an interrogation. Illustrative is *Munson v. State*, 123 P.3d 1042 (Ala. 2005). In *Munson*, the court stated that the bright-line rules articulated in *Miranda* exist precisely because it is inappropriate for the police to make judgment calls about a suspect's motivations for invoking his rights. Stated the Court:

It will not always be apparent whether a suspect is attempting to cut off questioning to prevent self-incrimination; or because he is emotional, tired, angry, confused, frightened, or overwhelmed; or because of a combination of these reasons. And the cost of clarification is too great; not only would inquiry into a suspect's motivations prove a quagmire for police interrogators, but it would radically diminish *Miranda's* protections.

Munson, 123 P.3d at 1049.

In the case at hand, Stivers made a clear and unambiguous invocation of his right to silence that was coupled with an explanation for why he wanted questioning to cease. It is profoundly unfair to recognize invocations to the right to silence only when they are requested with no explanation. This Court should thus grant review, and provide guidance to lower courts on whether a suspect's reasons for wanting questioning to cease can be used to invalidate an otherwise clear invocation of the right to silence.

This Court should also determine whether promises of leniency are inappropriate when they are related to the suspect's case, and to what extent police may use promises and lies to extract a confession from a suspect and have the statement still considered voluntary. As a general rule, an officer's statement to a suspect, coupled with a suggestion of a specific benefit that will flow if the suspect makes a statement, constitutes an offer of leniency that renders the statement involuntary and inadmissible. *People v. Kellerman*, 342 Ill. App. 3d 1019, 1027 (3rd Dist. 2003). Here, John Yard repeatedly promised Stivers that he would be allowed to see his dying son in exchange for a confession. Specifically, John Yard told Stivers, "Let's talk," and "I absolutely 100% promise you that we will let you see your son." (St. Ex. 7, Disk 2, Part 1, 19:36). When Stivers questioned what would happen to him if he confessed, John Yard responded that he would "keep my promise and let you see your son." (St. Ex. 7, Disk 2, Part 2, 11:25). A third time, Yard again told Stivers that if he confessed, he would be allowed to go in and see C.L., and that he would not be arrested in front of his family. (St. Ex. 7, Disk 2, Part 3, 01:40). Knowing that he was going to be arrested no matter what, a confession was the only way Stivers could see his dying child. This was a "specific benefit" offered repeatedly by John Yard in exchange for his confession. *Kellerman*, 342 Ill. App. 3d at 1027.

The appellate court rejected Stiver's claim that these promises amounted to offers of leniency. The court found that because the promises were not "any benefit related to his case," they were not promises of leniency. Stivers, ¶60. Stivers maintains that while

offers of leniency are frequently related to the charges or the case itself, there is no need to treat a promise for something the suspect values that is not related to the case any differently. Stivers wanted to see his dying son, and John Yard repeatedly promised him that he could only see C.L. if he confessed. While not a benefit related to the charges or the case, it was clearly a "specific benefit" that Stivers valued. An inducement to confess is an inducement, no matter if it is strictly related to the charges or not.

Additionally, the officers lied to Stivers throughout the interrogation. They measured Stivers's hands and told him that the measurements matched C.L.'s bruises. Weller told Stivers that they could get "reverse ridge impressions" from underneath the skin during an autopsy. John Yard told Stivers that he should consider the interrogation as an "opportunity" to seek a lesser charge. (St. Ex. 7, Disk 1, Part 1, 00:18-11:41, 14:58-15:13, Part 2, 00:45, 07:06, Part 3, 12:57, 13:44). In spite of the repeated lies and clear promises intended to induce a confession, the Illinois appellate court found the statement to be voluntary.

This Court should grant review and determine whether promises of leniency must be tied to a suspect's case, and to what extent law enforcement may use promises, lies, and other trickery before a statement becomes involuntary.

Conclusion

This Petition for Writ of Certiorari to United States Supreme Court should be granted do to the Constitutional grounds that are in question.