

No. 21-7067

In The
Supreme Court of the United States

KIMMIE D. BAKER,

Petitioner,

vs.

STATE OF ARIZONA,

Respondent.

**On Petition For A Writ Of Certiorari
To The Court Of Appeals Of Arizona**

PETITION FOR REHEARING

KIMMIE D. BAKER
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RECEIVED

JUN - 8 2022

**OFFICE OF THE CLERK
SUPREME COURT, U.S.**

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REASONS FOR GRANTING THE PETITION

- I. Should the most Demanding Standard of Arizona Rule of Canons 2.1 and 2.2 apply when a motion is filed?
- II. Should a Judge be allowed to intentionally deny their Canon responsibilities and not rule on a motion before his Court for five months when the Standard Practice is thirty days?
- III. Should this Court review why the Arizona Court of Appeals reversed its ruling on December 10, 2020, based on Canon Violation?
- IV. This Court should not resolve the Substantial and Important Factual Issues in the case without Full Briefing and Argument.

This Court did not acknowledge Arizona's lack of State appellate review of the Canon Violation under Sections 2.1 and 2.2.

Rehearing is appropriate for this Court to consider the following substantial questions:

- I. Should the Most Demanding Standard of Arizona Rule of Canons 2.1 and 2.2 apply when a Procedural Motion is filed?**

Arizona's adoption of its own rules of Canon, Rules 2.1 and 2.2, are what is at issue here. Arizona affirmatively opted to preclude any State review – Judicial or

not a police report associated with the Search Warrant, protected by the Petitioner's Fourth Amendment Protection from Unreasonable Searches and Seizures.

II. Is applying the Demanding Standard under Arizona Canon Rules 2.1 and 2.2 wherein no State Appellate Court Review the Claim inconsistent with the Fourth Amendment?

The Fourth Amendment prohibits unreasonable searches. Attached hereto and incorporated herein by reference "Appendix 1: Search Warrant #2011008116, Julia M. Lopez, Commissioner, Superior Court, County of Maricopa, State of Arizona, Signed October 4, 2011, Filed October 6, 2011" and "Appendix 2: Vehicle Impound Report, ARS 28-3511 Impound – 30-Day Hold, Tempe Police Department, Tempe, Arizona, Incident Number 11-154186."

III. This Court should not resolve the Substantial and Important Factual Issues in this case without Full Briefing and Argument.

In this case, the unrebutted evidence presented in the State Court established that in October 2011, after an executed Search Warrant #2011008116, Tempe Police Report #11-154186, no evidence was found to even prosecute Petitioner, if this Court would consider the adjudication and "Sides Variance Report" of the Arizona Department of Economic Security. This Court will find that the Tempe Union High School Board decided to terminate Petitioner's employment based

CERTIFICATE OF COUNSEL

Pursuant to Rule 44.2, I hereby certify that this Petition for Rehearing is restricted to the grounds specified in the Rule with substantial grounds not previously presented, and is presented in good faith and not for delay.

/s/

KIMMIE D. BAKER

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is located on the right door post, in raised black lettering approximately 4 inches in height and the numbers *are* approximately 6 feet off the ground. "C" is located on the southeast corner of the building.

☒ in the vehicle(s) described as:

A 1995 white, 4 Door, Geo with Arizona personalized license plate #ISRVIVE and VIN #1Y1SK526XSZ037276

In the City of Tempe, County of Maricopa, State of Arizona, there is now being processed or concealed certain persons, property, or things described as:

Fruits and evidence of the crimes of: Burglary, ARS 13-1506A1 and Theft, ARS 13-1802.A.1

*Items to establish ownership of the residence and identity of person(s) in control of the residence including, but not limited to receipts, phone bills, utility bills, mail, insurance, envelopes, receipts, keys, documents, and other papers relating to ownership, dominion, or control of the residence.

Items related to case #11-156184:

*A medium sized clear plastic bag with a barcode and the serial number #A22813763 written in black writing on the front of the bag.

*A medium sized clear plastic bag with a barcode and the serial number #A22813764 written in black writing on the front of the bag.

*Medium sized clear plastic bags with barcodes and the serial numbers #A21652524 through A21652523 written in black writing on the front of the bag.

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*Medium sized clear plastic bags with barcodes and the serial numbers #A21652524 through A21652528 written in black writing on the front of the bag.

*Medium sized clear plastic bags with the serial numbers #A21652531 through A21652539 written in block writing on the front of the bag.

*Long white strip of paper with the serial numbers #A21652529 written on one side of it in black writing.

*Long white strip of paper with the serial numbers #A21652530 written on one side of it in black writing.

*Stolen US Currency Denominations – \$100 bill x 4, 1 \$50.00 bill, \$20.00 x 13, \$10.00 x 7, \$5.00 x 48, .25 x 31, .10 x 2, .05 x 1

*Any other plastic bags that are known money deposit bags believed to have been taken from Tempe H.S.

*All keys to Tempe High School campus to include but not limited to key #SC20

*Biological evidence to include buccal swabs, fingerprints, and photographs.

That the following facts establish probable cause for believing that grounds for the issuance of a search warrant for the aforementioned items exists:

Your Affiant, Detective Latasha Hampton #16487, has been a sworn Police Officer with the Tempe Police Department since July of 2001. Your Affiant attended 16

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time entered the front administration building of Tempe High School located at 1730 S Mill Ave, Tempe and stole \$1028.00 in cash from two different money bags that were stored in a locked closet in room B111. On 09/23/11 during the third quarter of the Varsity Football game at Tempe High School, the cash proceeds from the game were placed inside two different plastic money bags. The money bags were medium sized clear plastic bags with black writing on the outside of each bag inside yellow boxes. Each bag had a barcode and serial numbers written in black writing on the front side of the bag. The money from the football game was placed inside the two money bags and sealed. A white strip of paper was removed from the top of the plastic money bags before they were sealed. The white strips of paper contained the serial numbers that belonged to the bags they were removed from.

One plastic money bag contained \$966.00 dollars in cash and coins and had a deposit slip detailing the denominations placed inside the bag. The second bag contained \$1093.50 dollars in cash and coins and had a deposit slip detailing the denominations placed inside the bag. The white slip of paper with the serial numbers, carbon copy of the original deposit slip and a ticket sales receipt was placed in the cash boxes, which had been used to sell tickets during the football game. The money bags were handed to Assistant Principal Shelly Arredondo who then handed them to Security officer Richard Leon. Leon placed the two plastic money bags inside a large black and blue shopping bag.

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procedure. The school administrators include: Principal Mark Yslas, Assistant Principal Kate Glenn, Assistant Principal Stacia Wilson and Assistant principal Shelly Arredondo.

The money bags and cash boxes were stored in the closet over the weekend. On 09/26/11 Arredondo asked Leon to take the money bags and money cases from the locked closet area to the bookstore. Leon took the items to the bookstore and placed them in the office in the bookstore. Quihuas was not at work on Monday but her assistant, Alejandra Ruiz, was working in the bookstore. Leon left the items in the back office area near the safe in the bookstore. There's only one key that opens the bookstore door and that key number is 636. There are only two 636 keys on the campus and those keys belong to Quihuas and the Principal's secretary, Dana Lucero. While Quihuas was on vacation, she gave her key to Ruiz so that Ruiz could open and run the bookstore.

On 09/27/11 Quihuas returned to work and Leon told her that he left the money and cash boxes in the bookstore. Quihuas checked the money bags and said that the deposit slips were missing from inside the sealed plastic bags. Quihuas contacted Leon and Arredondo and told them to come to the bookstore because something was wrong with the money bags.

Quihuas told Arredondo that the ticket sales report, carbon copy of the deposit slip and the white strip containing a copy of the original serial number from the money bags were left inside each cash box. The serial

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when Quihuas counted out the cash there was only \$833.50 dollars remaining. The suspect stole a total of \$1028.00 from the two bags. The stolen currency includes; \$100 bill x 4, 1 \$50.00 bill, \$20.00 x 13, \$10.00 x 7, \$5.00 x 48, .25 x 31, .10 x 2, .05 x 1.

The money bags were checked for fingerprints and later sent to DPS to be checked for DNA.

In conducting my investigation into this burglary and theft, I found that there were no signs of forced entry into the school administration building or into the closet area, where the money had been stored over the weekend. Villa-Reyes was contacted and she stated that she normally kept her plastic money bags inside her desk located in her office, which is in locked area inside the cafeteria. There are only 2 keys that can open Villa-Reyes' door and those are school keys SC20 and 754B.

Villa-Reyes showed me where she normally stores her bags. On 9/27/11 it was discovered that Villa-Reyes was missing 16 bags from her series after she was notified of this investigation. The missing bags were numbered between #A21652524 – A2165239. Villa-Reyes stated that she is the only staff at Tempe High School who uses her bags and she uses them to drop off money from the proceeds in the cafeteria to the bookstore on a daily basis. I checked Villa-Reyes' office and did not see any signs of forced entry.

On 09/27/11 I contacted all of the security and administration staff and asked them if they had been on Tempe H.S. campus over the weekend and in the front

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supervising a carwash at Tempe HS involving the police youth program. I had attempted to enter Arredondo's office earlier in the day, to get an ice chest, but could not enter because my 816B key does not work on her door.

Baker stated that he lost his original set of keys the previous year. but failed to tell his supervisor (Arredondo) that he lost his keys. Baker said he obtained a new 816B key soon after he lost his keys from Val Vierra at the school, but when Vierra was contacted reference this, she denied that Kim Baker ever obtained any new keys from her.

After getting the initial interviews from everyone, I checked the school surveillance cameras for the weekend. On 09/23/11 at 20:57:48 hours, Leon is seen entering the front administration building carrying two large cases and a black bag. Leon exits the building at 21:02:55. At 21:17:24 hours, Leon enters the building again and he's carrying the money box from the concession stands. Leon exits the building at 21:19:22 hours.

On Saturday 09/24/11 at 11:50:29 hours, Baker drives a white 4 door vehicle with a black bra on the front of the vehicle into the Broadway parking lot onto Tempe High School campus. Baker exits his vehicle and enters the back door to the Lecture Hall. Baker opens the doors and walks up a set of stairs into the lecture hall. The lights in the lecture hall are off and he can not be seen inside the lecture hall. The next time Baker comes into camera view is at 11:54:13 hours, and he is seen

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and the doors were locked. I was checking to see if anyone entered the back area of the cafeteria. The only way to enter the back area doors of the cafeteria is to use a SC20 key. On 09/23/11 at 17:05:56 hours, I observed Baker driving his school golf cart southbound near the P building towards the cafeteria. At 17:07:04 hours, I observed Baker walk into the main cafeteria through the west door. Baker walks up to the west side door leading to the back of the cafeteria where the food is located. Baker uses a key to open the door. It should be noted that when I interviewed Baker, he said that he did not have a SC20 key. When I checked his key ring during the interview, Baker did not have the SC20 key on his key ring. The SC20 key is the same key that opens Villa-Reyes' office in the cafeteria as well.

Baker enters the back cafeteria doors and disappears from camera view. Baker is in the back cafeteria area until 17:12:31 hours when Baker exits (a total of approximately 5 minutes). Baker has his keys in his hand. Baker walks out of the cafeteria and exits through the west cafeteria doors into the teacher's cafeteria area. At 17:13:50 hours, Baker is seen driving his golf cart away from the cafeteria area and heading eastbound on campus. There was no reason for Baker to enter the rear area of the cafeteria.

After reviewing the surveillance footage it was learned that Baker lied about having keys to the closet in B111 and to the cafeteria. Baker used the key to enter the back area of the cafeteria on 9/23/11. On 09/27/11 is when it was later determined that sixteen plastic money bags were removed from the cafeteria and only

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Based on the above listed facts, your Affiant believes that more items from the burglary could possibly be inside Grant's residence where Baker spends a majority of his time and inside Grant's vehicle. Your Affiant believes that with a more detailed search of the residence and the vehicle evidence related to this investigation could be found. In addition, it is being requested that fingerprints, photographs, and DNA/buccal swabs be taken from Baker for further analysis.

☐ Affiant believes that the following information demonstrates good cause for permitting this warrant to be served between 10:00 P.M. and 6:30 A.M.

Wherefore your affiant prays that a search warrant be issued commanding that an immediate search be made of the persons, premises, buildings, and vehicles described herein for the persons, property and things herein described, and that the same be retained in the custody of the affiant or in the custody of the agency which the Affiant represents and disposed of according to law, pursuant to A.R.S. 13-3920.

/s/ Latasha Hampton
Det. Latasha Hampton
#16487
Tempe Police
Department

/s/ [Illegible]
[Illegible]
Tempe Police
Department

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**Tempe Police Department
Tempe, Arizona**

[Logo] Tempe Vehicle Impound Report

Incident Number 11-154186

Original Report		Offense Code
<input type="checkbox"/> Abandoned Vehicle Impound		30010000
<input type="checkbox"/> Impound Vehicle		28483100
<input checked="" type="checkbox"/> ARS 28-3511 Impound		28351100
- OR -		
Attachment		
<input type="checkbox"/> Collision		
<input type="checkbox"/> Operator Arrested – DUI		
<input type="checkbox"/> Operator Arrested – Other Offense		
<input type="checkbox"/> Stolen Vehicle / Unlawful Use		
<input type="checkbox"/> Vehicle Inventory Only		
<input type="checkbox"/> Other: _____		
Officer Name / Serial Number		
Dawson 17223		
Location Vehicle Removed From		
(Street Address, City) 1400 S McClintock Dr		
Report Date	Date of Tow	Time of Tow
09 27 11	09 27 11	1202
Beat Z-1	RD 1009	

Vehicle Operator

Name (Last, First, Middle)		Address	
Johnson, Clifton		600 S Dobson Rd # 99	
City MESA	State AZ	Zip Code 85202	

Reason for Impound

<input type="checkbox"/> A. Tow / Impound – Vehicle Releasable	<input type="checkbox"/> Changed to 3511 Hold
<p>The above listed vehicle was impounded for the following reason(s) (check all that apply):</p>	
<input type="checkbox"/> The listed vehicle was illegally parked pursuant <input type="checkbox"/> ARS <input type="checkbox"/> TCC _____.	
<input type="checkbox"/> The vehicle was red tagged on _____ at _____ hours and has been abandoned in excess of <input type="checkbox"/> 48 <input type="checkbox"/> 72 <input type="checkbox"/> 120 hours.	
<input type="checkbox"/> The vehicle was unattended and was illegally left standing on a highway in a position or under circumstances that obstructed the normal move- ment of traffic.	
<input type="checkbox"/> The vehicle was immobilized with a parking boot in excess of 24 hours.	
<input type="checkbox"/> The person(s) in charge of the vehicle is / are unable to provide custody or removal. <input type="checkbox"/> Subject was arrested for <input type="checkbox"/> Outstanding Ar- rest Warrant <input type="checkbox"/> ARS <input type="checkbox"/> TCC _____ and was transported from the scene. <input type="checkbox"/> Subject was transported from the scene for medical treatment. <input type="checkbox"/> Other (See notes.)	
<input type="checkbox"/> The person driving the vehicle or in control of the vehicle was arrested for an alleged offense for which the officer is required by law to take the person arrested before a proper magistrate without unnecessary delay.	
<input type="checkbox"/> The vehicle had been reported stolen or taken without the consent of the owner.	

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☐ section 4-244, paragraph 33 (BAC Result = ____ /
____) or ☐ section 28-1382 (BAC Result = ____ /
____) or ☐ 28-1383.

Related Incident Reports or Citation Numbers

**Tow Company Notification of Change to 3511
Hold**

Related Incident Report Number or Citation Number MVC # 1528567	
Tow Company Employee	
Date	Time

TPC-405

POLICE RECORDS _____
