

21-7101

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES

Martavi James — PETITIONER
(Your Name)

vs.

United States — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

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

PETITION FOR WRIT OF CERTIORARI

Martavis James
(Your Name)

FLI P.O. Box 1000
(Address)

Oxford, WI, 53952
(City, State, Zip Code)

(Phone Number)

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DEC 14 2021

OFFICE OF THE CLERK
SUPREME COURT, U.S.

QUESTION(S) PRESENTED

Is cellular-phone data location information
have a expectation of privacy?

ANSWER PROVIDED:

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STATUTES AND RULES

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 James 3F.4th 1102; 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☐ is unpublished.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 B to the petition and is

☒ reported at Dist. Ct.'s 210433, 2018 WL; 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☐ is unpublished.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☐ is unpublished.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☐ is unpublished.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 July 9, 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 March 19, 2020 (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).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Fourth Amendment case

/ Constitutional Law: Search & Seizure Scope of protection, probable cause.

The Fourth amendment bars unreasonable searches and seizures. In describing the fourth amendment as a protection of people and not places, the U.S. Supreme Court has stated that what a person seeks to preserve as private, even in an area accessible to the public, may be constitutionally protected. A government intrusion into a person's private sphere qualifies as a search, triggering the Fourth Amendment requirement that the intrusion be authorized by a warrant supported probable cause, when that person seeks to preserve something as private, and his expectation of privacy is one that Society is prepared.

~~More is required, or that least some~~

STATEMENT OF THE CASE

While looking into series of robberies in the Minneapolis ~~area~~ area. Investigators began to suspect one ~~person~~ person is committed all of the robberies. Because modus operandi: The robber entered the store at the same time near closing time. Then ~~he~~ orders the employees to the back room at gun point and leave on foot. None of the security-camera footage did not reveal the suspect identity. So the investigators request warrants for cellular-tower data. so they can ~~compare~~ compare numbers. With 90-minute ^{minute} period ground each of the robbery. The investigators got two additional search warrants to examine cellular-tower records for those crimes. Investigators identify a common number that led them to James so they apprehended James and they searched his car, found a bank-deposit bag and a red and black bag. so based on the evidence they collected the government charged James with eight counts of interference with commerce by robbery and two counts of attempted interference with commerce by ~~the~~ robbery. Before trial, James moved to suppress the ~~evidence~~ evidence. Jame challenges the warrants lacked particularity requirement and probable cause. District court denied the motion. After jury trial they convicted James on all ten counts and sentenced him to 180 ~~month~~ months in prison. James file for appeal in the Eighth Circuit of Court Appeal. James challenged the constitution of the search. The judges affirm the appeal because the judges who approved the warrants had substantial basis to ~~et~~ conclude that probable cause do existed and there a fair probabilities evidence of crime would be reveal in the towers records

REASONS FOR GRANTING THE PETITION

First the search warrants lacked probable cause for why the government need to obtain all the data information from the towers. The Appeals courts stats that the government established probable cause to search the towers. Because the crime happend in that area and the unknown subject was in the area as well. Plus the unknown subject might be in possessed of a cell phone. The problem with this argument is that ~~problem~~ probable cause analysis failed to established probable cause to whether probable cause exist to uninvolved persons. And probable cause for all the seized information. The U.S. Supreme Court rejected that ~~var~~ very argument in

(Ybarra V. Illinois), "A persons mere propinquity to others independently suspected of criminal activity does not, without more, give rise to probable cause to search that person, where the standard is probable cause, a search or seizure of a person, and this requirement cannot be undercut or avoided by simply ~~per~~ pointing to the fact that ~~can~~ coincidentally there exists probable cause to search or seize another or to search the premises where person may happen to be." In effect the government got the same authority with the search warrant based only on cellular data users "~~per~~ Propinquity" to the crime scenes or the unknown subject. Ybarra held was not supported by individualized probable cause. Based on the search warrant it is

a all persons warrants majority of the courts rejected warrants known as "all person warrants. See

(Marks V. Clarke) "stating that a warrant to search all ~~present~~ ~~person~~ ~~present~~ ~~person~~ for evidence of a crime

may only be obtained when there is reason to

believe that all those present will be participants in the suspected criminal activity

REASONS FOR GRANTING THE PETITION

The search warrants only established that one person was committed all of the robbery. James not saying tower dumps warrants is unconstitutional. See (Owens V. Lott)

(An all persons warrant can pass constitutional muster if the affidavit and information provided to the magistrate judge supply enough detailed information to establish probable cause to believe that all persons on the premises at the time of the search are involved in the criminal activity." There was no reason to believe that anyone other than the unknown subject was involved in the subject offense. And only data information that the government should be seeking was the unknown subject not everybody on the premise. James believe there no probable cause to believe that other persons of will contains evidence of the crime.

Particularity Determination

Particularity requirement must be specific in the warrant also clear as well. see (Coolidge V. New Hampshire). (The particularity requirements bar on general warrants protects not only the sanctity of a person's home but also "the privacies of life." The search warrants was overbroad based on not ~~specific~~ being specific on what numbers they need and the phone too.

Ybarra also cited the fourth amendment's particularity requirement a warrant to search a place cannot normally be construed to authorize a search of each individual in that place. Also the government never identify any of persons cellular-data information they will obtain from the tower dumps. And the warrant puts no limit on the on the government discretion to select the cellular-data information. To meet a particularity requirement it leave the executing officer no discretion as what to seize. A open-ended warrants are constitutionally prohibited, this warrants fall into a general warrant as well. Also a open-ended warrant does not give the authorization for public officials to rummage where they please in order to see what turns up. The warrants never established that the unknown subject even had a phone at time of the robberies. Also the warrants was not that clear of ~~about~~ mention cross-referencing cellular-data information in the warrant as well. ~~with~~ ~~with~~ With this amount of cellular-data information. The government was granted far greater discretion to sort through the data information to identify the suspect by process of elimination. This amount of discretion I believe it is too great to comply with the particularity requirement. James is asking the court for consideration to look into this case. And vacated and remanded ~~the~~ the United States court of appeals opinion. Because Ybarra is a good law.

So Appellant James not saying this warrants are unconstitutional. But the longstanding Fourth Amendment ~~part~~ constitutional must comply with individual privacy in the warrant. Ybarra law is still good today. Court in the United States America should not permit the intrusion. Nowhere in Fourth Amendment jurisprudence has the end been held to justify unconstitutional means. I do ~~believe~~ believe this was unconstitutional search base on that I ~~the~~ hope the court granted this petition James would like this case be vacate and remanded back to court

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Martavis James

Date: 12-2-2021