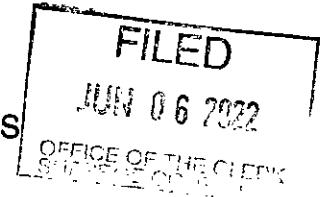


No. 21-8069 ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES



Billy Wayne Lewis — PETITIONER
Pro se — Prisoner

vs.

The State of Texas — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

TENTH COURT OF APPEALS FOR THE STATE OF TEXAS

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Billy Wayne Lewis #1057794

(Your Name)

1300 FM 655

(Address)

Rosharon, TX. 77583

(City, State, Zip Code)

NONE

(Phone Number)

QUESTION(S) PRESENTED

I.

QUESTION ONE: U.S. CONSTITUTION IV AMENDMENT

RULE 10. Rules of the United States Supreme Court at (C);
Has the Tenth Court of Appeals of the State of Texas made a decision
in this instant case; Billy Lewis V. State of Texas Cause No.
10-19-00370; That is in direct conflict with this Court's decision
and guidance in Rodriguez v. United States 575 US 348 (2015). As to
protection against unreasonable search and seizures?

QUESTION TWO: The U.S. Supreme Court's Supervisor guidance:

Has the need to arose for this Court to clarify or elaborate on it's
prizm; Rodriguez v. United States at 575 US 348 (2015)?

When it has been made by numerous State and Federal cases listed in
both the Appellant and States briefs as well as the Court of Criminal
Appeals of Texas being confused to the point it has refused every
case pertaining to Search & Seizures:

The Lower Court & Authorities are split on the meaning of this
Court's guidance in this prism.

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

* The State of Texas v. Billy Wayne Lewis
Cause No. 10287; 82nd Judicial District.

* Billy Lewis v. The State of Texas
Cause No. 10-19-00370; In the 10th Court of Appeals, in
McLennan County, Texas.

* Billy Lewis v. State of Texas; Court of Criminal Appeals of Texas;
Cause No. PD-0904-21.

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 _____ 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 A to the petition and is

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 is unpublished.

The ~~refusal~~ of the Court of Criminal Appeals, TX court appears at Appendix C 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 _____.

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 03-02-2022. A copy of that decision appears at Appendix C.

A timely petition for rehearing was thereafter denied on the following date: 11-17-2021, and a copy of the order denying rehearing appears at Appendix E.

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). And a Certiorari is timely filed, if submitted via U.S. Mail, on or before June 1, 2022.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

United States Constitutional Rights Granted and protected by the IV Amendment of the United States Constitution 1 as the IV amendment creates a shield against unreasonable searches and seizures which were decided by this Court in Rodriguez (Prizm - 2015).

1. U.S. Const. IV Amendment;

STATEMENT OF THE CASE

The State of Texas indicted Billy Wayne Lewis, in cause number 19-04-10287. The offense of possession of controlled substance to wit methamphetamine over four grams and less than 200 grams.² Mr. Lewis file a Motion To Suppress Evidence on July 10th, 2019. In the 82nd Judicial District of Texas; The Honorable Bryan Russ. A hearing was orally denied the motion to suppress on September 12, 2019.³ On October 8th, 2019, appellant plead no contest to the allegations, and received a 10 year sentence in the Texas Department of Criminal Justice, Institutional Division.⁴ The Trial Courts Certification was filed on October 8th, 2019 stating the criminal case is "a plea bargain case", but matters were raised by written motion before trial and not withdrawn or waived, and defendant has the right to appeal.⁴

- 2. Tex Health & Safety Code Ann. § 481.115(d) (West 2019)
- 3. Appendix B. (R.R. at 23)
- 4. (I.C.R. at 25-26)

The Court appointed Stan Schwieger, for Appellant on appeal. And the case was filed on 10-22-2019, case # 10-19-00370: Briefs were filed by both parties on 09-15-2021. The Tenth Court of Appeals issued a judgement and opinion (Appendix A).⁵ Motion for rehearing was timely filed and denied.⁶ The appellant timely filed a PDR in the Court of Criminal Appeals of Texas and it was refused on 03-02-2022, PD-0904-21.⁷

::::

- 5. Appendix A.
- 6. Appendix E.
- 7. Appendix C.

REASONS FOR GRANTING THE PETITION

There are two very important reasons the U.S. Supreme Court should invoke its powers and grant this petition.

I.

The Tenth Court of Appeals has decided an important question of Federal Constitutional law that conflicts with the applicable decision of the United States Supreme Court.

[Specifically, the lower Court's opinion violates the dictates of the routine traffic stop boundaries set by this Court.]

A. The holding of the Waco Court of Appeals defies the Supreme Court's holding in Rodriguez and its progeny. In its opinion, the Waco Court ignores the clear diversion of a traffic stop into a criminal investigation that is prohibited under Rodriguez.⁸

1. The Waco Court, completely missed, or edited important factual background matters, to fit its holding that the traffic stop was continued through the Petitioner's consent to search.

In its summary, the Court of Appeals either overlooked or simply trimmed the underlying factual background, to support its holding. As such, the Petitioner sets forth the factual background and basis (In summary fashion) from the opinion below, supplemented with key relevant background matters.

[A city of Lott Police Officer stopped Petitioner for an expired temporary license tag. Petitioner was informed of the reason for the stop and drivers license and proof of insurance were requested. Petitioner had a current tag in the front windshield. However, Petitioner did not produce driver's license or current proof of insurance. The Officer was able to establish Petitioner's license

⁸ Rodriguez v. U.S., 575 U.S. 348, 350-51 (2015) To address traffic violation, address safety concerns: Stop may no longer than necessary for its purpose: ID 354

were valid and insurance.

(No citations were issued)

According to the Officer, Petitioner appeared to be "nervous".

For instance, after Officer asked Petitioner for his drivers license and proof of insurance, Petitioner took his cash out and threw it unto passenger's seat next to him.

Officer Meyers asked Petitioner where he came from and where he was going. Petitioner told the Officer he was going to see "Kay" and pointed to a house a couple of hundred yards away and although he claimed to know Petitioner for many years, Petitioner didn't know Kay's last name; the officer thought that "odd." The house to which Petitioner referred and the name "Kay" were familiar to the Officer. When he had first gone to work for the City of Lott Police Department, others had told the Officer that there were several ongoing narcotics investigations that involved that house and a person named "Kay."

When the Officer asks petitioner for proof of insurance, Petitioner told Officer he had current insurance;

(Which was obvious, to obtain valid temporary tag in Texas, you must have a valid driver's license and proof of insurance).

While Petitioner was looking for a valid (current) insurance card, the Officer went to his patrol car, Petitioner had furnished Officer with his date of birth, drivers license number and his full name. The Officer used the information to run a driver license and warrant check; He also requested a criminal background history check.

He also called his police chief and discussed the situation with him.

It is at this point, the narrative of the Waco Court requires further expansion - as the contents of the "discussion" (was left out, overlooked, overedited), was left unsaid/unseen.

"I pulled over a "white guy named Billy Wayne Lewis (Note: white guy, as police chief is a Black Guy) he has expired tags but he is on his way to Kay's house ... and I notice you have several cases on him in COPsync history and wondered if you knew anything about him." The Officer continued "yea, Billy Lewis old white guy. Says he has known Kay from way back. She just called him out of the blue to come over here...he got a car load of stuff. I don't know, it's packed in there...going to have to pull it all out to see what's there...it's just packed full of stuff." A response was audible but what was said cannot be discerned. The arresting Officer then states that "I haven't got that far yet, I just came back and started running him with all the history with you guys...another short response from the chief is heard, then the arresting Officer responds..."Ahhhh, lets see here. COPsynch history..." The chief is overheard speaking back "No it says suspicious vehicle where Rogers towed it for the some reason. But I didn't say why. Now I'm about to run a 43 on him...I didn't know if you'd just... yea that kind of what I thought he told me too."¹

The underlying opinion then correctly sets out the remainder of the stop.

When Officer Myers returned to Petitioner's vehicle, Officer Myers claims Petitioner was still looking for insurance information. Ordered Petitioner out of the vehicle, the Officer eventually asks permission to search. Petitioner denied the initial request and

was told he "would just wait there for a canine unit" and do a walk around the car." [Note: The traffic stop was made January 29th the temperature was below freezing:] At some point, petitioner eventually told the officer to go ahead and search. The officer testified he told Petitioner, "No, I don't want to coerce you. I don't want that, we can just wait out here in the cold for canine unit not a problem." Petitioner told officer to proceed. Officer ask "are you sure" Petitioner said "Yes". The officer conducted a search and claims to have found narcotics in the vehicle: A current insurance card was never furnished:⁹

Succinctly, the "discussion" took this "Traffic stop mission"-- turning the traffic stop into a criminal investigation.

["He got a whole car load of stuff...
going to have to put it all out to see
what's in there."]

Because the investigation occurred while the officer detained Mr. Lewis, the lawful traffic stop ended. Because reasonable suspicion was not developed during the traffic stop, the troubled consent and resulting fruits from the search should have been suppressed.¹⁰

2. The initially lawful stop turned into
an illegal detention.

A traffic stop is a detention and must be reasonable under the United States Constitution. To be reasonable, a traffic stop, must be temporary and last no longer than necessary to effectuate the purpose of the stop. A police stop exceeding the time needed to handle the matter for which the stop was made violates the constitution's shield against unreasonable

search and seizures. A traffic violation seizure becomes unlawful if police prolong the time "reasonable requireds to complete the mission of issuing a ticket for the violation.¹⁰

[Note: Appendix B, at 2 thru 10,
Officer testifies to prolonging
traffic stop to conduct investigation.]

During a routine traffic stop, the detaining officer may request: (1) Driver's License, (2) Car Registration, (3) Proof of insurance, (4) Using the information to conduct computer check for outstanding warrants, (5) Question the vehicle occupants of travel plans, and (6) issue a citation. Only if an officer develops reasonable suspicion that another violation has occurred, may the scope of the traffic stop expand into an investigation. "Reasonable suspicion must be founded on specific, articulable fact that when combined with rational inferences from the facts, would lead the officer to conclude that the particular person actually is, has been or soon will be engaged in criminal activity:

3. The Waco Court was correct. The traffic violation was never resolved - it ended when the officer unlawfully veered into a criminal investigation.

Although the Waco Court correctly held that the police had not "resolved the traffic stop remained ongoing is a significant error. Once the officer began his "criminal" (drug) investigation," the traffic stop mission ceased and the officer extended the stop beyond it's lawful limits. "The critical question" is not WHEN this arresting officer began his fi-

10. Rodriguez, 575 U.S. at 357 (Emphasis Added)

shing expedition, i.e., "either before or after he issued a ticket." (a ticket was never issued), it is whether the fishing expedition prolongs or "adds time to the stop."¹¹ Here, the officer detained Mr. Lewis while engaging on a fishing expedition during the stop. The above stated discussion - the cited conversation with the police chief involving narcotics (drug) posession - was aimed "at detecting evidence ordinary criminal wrongdoing." As reflected above, the officer tells the chief of police that [Petitioner] got expired tags because though he's on his way over to Kay's house...and I notice you have several cases on him in COPsynch history and wondered if you knew anything about him.. I haven't got that far yet, I just came back anmd started running him with all the history with you...

[It is clear at this point the traffic stop has been concluded, and the officer is off and running on a criminal (drug) investigation. It is also clear no reasonable suspicion has been developed. (Previous officer testifies he has been a police officer for over 20 years and when first went to work for the city of Lott he heard about narcotics investigation at a lady named Kay's house.) The Kay in question didn't live in a house but a duplex apartment, has never been arrested for drugs or criminal activity: What the officer heard 5, 10, or 20 years ago (we do not know where he went to work for the city of Lott). And what he heard about a lady named Kay who lived in a house) does not rise to reasonable suspicion.]

The above stated conversationis direct evidence that the arresting officer was pursuing a drug investigation. Having embarked upon matters outside his traffic stop mission, any information or a reluctant consent to search cannot be considered - having already run the clock of the traffic stop

11. United States v. Gomez, 877 F.3d 76, 80-81(2nd Cir.2017).Unlawfully extended stop.

The stop had already went past it's constitutional limit, and any evidence obtained beyond was unlawfully obtained.

(United States v. Gomez, 877 F.3d 76, 80-81(2nd Cir 2017))

As such is clear the Waco Court's conclusion about the not yet "fully resolved", Traffic stop misses the issue in (Rodriguez v. United States 575 U.S.348 (2015))! It is the investigative inquires, unrelated to the traffic stop that prolonged the stop (traffic stop), which rendered the stop illegal.¹² Accordingly, the Lott Police Officer's traffic stop violated the Fourth Amendment to the United States Constitution, because the police officer prolonged the traffic stop by pursuing unrelated investigatory issues. Further, the officer had developed no other independant reasonable suspicion of criminal activity.¹³

Because the conclusion in the Waco Court, is in conflict with that of the United States Supreme Court's case, the Waco Court has decided a matter of constitutional law that violates the boundaries set forth by the Supreme Court of the United States to unreasonable searches. (Rodriguez 2015 Prizim).¹⁴

Therefore, the Court should grant this Petition for reason one alone.

12. Rodriguez v. United States (2015)

13. Lewis, 2021 Tex.App.Lexis 7627 at 6, 7, 8

14. U.S. Const. IV Amend.

II.

The Second reason for granting this Petition is vested in the supervisory guidance of the Supreme Court of the United States;

The lower Courts in the State of Texas and it's sister states: Due to whatever the reasoning have become split onto the Courts progeny in Rodriguez. (Rodriguez v. The United States, 575 U.S. 348, 350 - 351 (2015)) as to what constitutes unreasonable searches and seizures during a lawful traffic stop;¹⁵

Therefore the Supreme Court is needed to clarify and elaborate on it's progeny in Rodriguez.

15. Rodriguez, 575 U.S. at 348, 350-51

CONCLUSION

The Petition For Writ Of Certiorari should be granted.

Petitioner has presented compelling reasons for this Court to grant petition. The Waco Court has decided a matter of Constitutional Law in direct conflict with this Court's Prism in Rodriguez.

Further, Petitioner presented compelling reasons for this Court to clarify and expand it's guidance in Rodriguez (2015). Because of the conflict between many sister Courts in deciding the application of this Court's opinion in Rodriguez. Geographics splitting the U.S. Citizen protections by U.S. Const. IV Amend.

Respectfully submitted,

Billy Wayne Lewis

Billy Wayne Lewis, ProSe

Date: 05-30-2022