

No.

**In the
Supreme Court of the United States**

TONY HOLT,

Petitioner,

v.

THE CITY OF CHICAGO, A Municipal Corporation;
PATRICIA CHRISTIAN, in Her Individual Capacity,
and JUNE JENKINS ROBB,

Respondents.

**On Petition for a Writ of Certiorari to the
Supreme Court of Illinois**

PETITION FOR A WRIT OF CERTIORARI

Robert L. Sirianni, Jr., Esq.

Counsel of Record

BROWNSTONE, P.A.

P.O. Box 2047

Winter Park, Florida 32790-2047

(o) 407-388-1900

(f) 407-622-1511

robertsirianni@brownstonelaw.com

Counsel for Petitioner

QUESTIONS PRESENTED FOR REVIEW

Does the Appellate Court's bright-line rule on probable cause, which presumes that information from a purported victim is inherently reliable, violate the Supreme Court's decision in *Illinois v. Gates*, 462 U.S. 213 (1983)?

Does the Appellate Court's bright-line rule on probable cause create a circuit split amongst federal and state courts and set Illinois courts at odds with the federal courts regarding the establishment of probable cause?

PARTIES TO THE PROCEEDINGS

The parties to the proceedings before this Court are as follows:

Tony Holt

City of Chicago, a municipal corporation, Detective Patricia Christian STAR # 20114, in her individual capacity, and JUNE JENKINS ROBB

CORPORATE DISCLOSURE STATEMENT

Pursuant to Supreme Court Rule 29.6, Petitioner Tony Holt has no parent corporations and no publicly held company that owns 10% or more of any entity.

LIST OF PROCEEDINGS

CIRCUIT COURT OF COOK COUNTY

No. 2017-L-008666

TONY HOLT v. CITY OF CHICAGO, a municipal corporation, DETECTIVE PATRICIA CHRISTIAN STAR# 20114, in her individual capacity, and JUNE JENKINS ROBB

Order dated 2/21/2020

Respondent's Motion for Directed Verdict and/or Oral Judgment Notwithstanding the Verdict GRANTED.

APPELLATE COURT OF ILLINOIS, FIRST DISTRICT

No. 1-22-0400

TONY HOLT v. CITY OF CHICAGO, DETECTIVE PATRICIA CHRISTIAN, and JUNE JENKINS ROBB

Order dated 6/30/2022

Circuit Court's order AFFIRMED.

SUPREME COURT OF ILLINOIS

128772

*TONY HOLT, petitioner, v. THE CITY OF CHICAGO,
etc., et al., respondents*

Order dated 11/30/2022

Petitioner's Motion for Leave to Appeal DENIED.

TABLE OF CONTENTS

QUESTIONS PRESENTED FOR REVIEW.....	i
PARTIES TO THE PROCEEDINGS.....	ii
CORPORATE DISCLOSURE STATEMENT.....	ii
LIST OF PROCEEDINGS.....	ii
TABLE OF CONTENTS	iv
TABLE OF AUTHORITIES.....	vi
PETITION FOR A WRIT OF CERTIORARI.....	1
OPINIONS BELOW	1
BASIS FOR JURISDICTION IN THIS COURT	1
CONSTITUTIONAL PROVISIONS INVOLVED	2
STATEMENT OF THE CASE	2
A. Bringing the Claims to Federal Court.	2
B. Concise Statement of Facts Pertinent to the Questions Presented.	3
C. Procedural History	6
REASONS TO GRANT THIS PETITION	7
I. The bright-line rule created by the court below threatens to undermine the Fourth Amendment’s requirement of reasonableness in determining probable cause and creates a circuit split.	7
CONCLUSION	10

APPENDIX

Appendix A	Order Denying Petition for Leave to Appeal in the Supreme Court of Illinois (November 30, 2022).....App. 1
Appendix B	Opinion in the Appellate Court of Illinois, First Judicial District (June 30, 2022).....App. 2
Appendix C	Order in the Circuit Court of Cook County, Illinois (February 21, 2020)App. 59

TABLE OF AUTHORITIES

Cases

<i>Beaman v. Freesmeyer</i> , 2021 IL 125617 (Ill. 2021)	8
<i>Beauchamp v. City of Noblesville</i> , 320 F.3d 733 (7th Cir. 2003)	10
<i>Guzell v. Hiller</i> , 223 F.3d 518 (7th Cir. 2000)	10
<i>Holt v. City of Chicago</i> , 2022 IL App (1st) 220400, <i>appeal denied</i> , 199 N.E.3d 1191 (Ill. 2022)	1
<i>Illinois v. Gates</i> , 462 U.S. 213 (1983)	7, 8
<i>People v. Kidd</i> , 175 Ill. 2d 1 (1996)	7, 8
<i>Reynolds v. Jamison</i> , 488 F.3d 756 (7th Cir. 2007)	10
<i>Sang Ken Kim v. City of Chicago</i> , 368 Ill. App. 3d 648 (1st Dist. 2006)	8, 9

Constitution and Statutes

U.S. Const. amend. IV	2, 7, 10
U.S. Const. amend. XIV	2
28 U.S.C. §1257(a)	1

Rules

Supreme Court Rule 13.1	2
-------------------------------	---

PETITION FOR A WRIT OF CERTIORARI

The Petitioner respectfully requests that a Writ of Certiorari be issued to review the decisions of the Supreme Court of Illinois, denying his petition for leave to appeal and the Appellate Court of Illinois, First District's order affirming the Circuit Court's decision.

OPINIONS BELOW

The February 21, 2020, order from the Circuit Court of Cook County, Illinois can be found and reproduced in the Appendix ("Pet. App.") at Pet. App. 1.

The June 30, 2022, decision from the Appellate Court of Illinois, First District can be found at *Holt v. City of Chicago*, 2022 IL App (1st) 220400, *appeal denied*, 199 N.E.3d 1191 (Ill. 2022) and is reproduced in the Appendix at Pet. App. 2.

The November 30, 2022, order from the Supreme Court of Illinois denying Petitioner's Petition for Leave to Appeal is reproduced in the Appendix at Pet. App. 1.

BASIS FOR JURISDICTION IN THIS COURT

On June 30, 2022, the Appellate Court of Illinois issued a decision. The Illinois Supreme Court denied a timely filed petition for leave to appeal on November 30, 2022. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. §1257(a).

CONSTITUTIONAL PROVISIONS INVOLVED

Fourth Amendment to the United States Constitution

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.

Fourteenth Amendment to the United States Constitution

No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

STATEMENT OF THE CASE

A. Bringing the Claims to Federal Court.

Because Petitioner's Illinois Supreme Court Petition for Leave to Appeal was denied by the highest state court in Illinois, Petitioner can petition this court for review. This Petition is timely as the Illinois Supreme Court decision was within the 90-day statutory period. *See* Supreme Court Rule 13.1.

B. Concise Statement of Facts Pertinent to the Questions Presented.

In January 2014, Respondent Detective Patricia Christian (“Respondent Christian”) was assigned to investigate allegations of assault and sexual assault made by Respondent June Jenkins Robb (“Respondent Robb”). Pet. Leave Appeal at 3.¹ She went to the hospital where Respondent Robb was taken for a criminal sexual assault examination and interviewed Respondent Robb for about 90 minutes. *Id.* During the interview, Respondent Robb alleged that she had been dating Petitioner for about four months and that Petitioner had violently raped and assaulted her three times, choking and dragging her, and pointing a cocked gun at her head. *Id.* Despite these allegations, Respondent Christian did not document Respondent Robb’s appearance or look for physical markings that would corroborate Respondent Robb’s story. *Id.* at 3-4. Respondent Christian also ignored information from the physician who performed the CSA exam that there was no evidence of trauma to Respondent Robb. *Id.* at 4.

After meeting with Respondent Robb and speaking with the physician, Respondent Christian’s investigation stopped, and she did not take any further investigative steps such as obtaining a search warrant for Petitioner’s home or speaking with the EMT who drove Respondent Robb to the hospital or with the downstairs neighbor Respondent Robb

¹ “Pet. Leave Appeal” references are to Petitioner’s Petition for Leave to Appeal in the Illinois Supreme Court followed by the page number.

claimed to have alerted by stomping. *Id.* The only investigative step Respondent Christian took was a call to Respondent Robb's husband and a police officer, but the report from Respondent Robb that the police officer conveyed to Respondent Christian differed from the statement Respondent Robb made to Respondent Christian in notable ways. *Id.*

These inconsistencies in Respondent Robb's account, combined with the lack of physical evidence or further investigation, would have led a reasonable officer to doubt the credibility of Respondent Robb's story and investigate further. However, Respondent Christian did not investigate further or re-interview Respondent Robb and submitted a case incident report that she knew would lead to Petitioner's arrest. *Id.* at 5. Despite the lack of corroboration or further investigation, Petitioner was arrested and charged with assault and sexual assault. *Id.*

Respondent Christian, a detective, sought approval from the Felony Review Unit (FRU) within the Cook County State's Attorney's Office to pursue felony charges against Petitioner. *Id.* at 8. The FRU attorneys approved the charges but expected that the investigation was complete and ready for review by the time they were called. However, Respondent Christian provided false and incomplete information to ASA Gool, the FRU attorney, about the investigation. Respondent Christian failed to mention the physician who conducted the CSA exam saw no evidence of trauma and also failed to provide information from Hufnagel's inconsistent report. *Id.* Gool testified that these types of statements are important in determining whether Respondent Robb's

account could support probable cause for Petitioner's prosecution. *Id.* Gool also claimed that Petitioner and Honeycutt told her that Respondent Robb stomped on the floor for help, but Petitioner and Honeycutt denied this at trial, leading the jury to conclude that Respondent Christian falsely told Gool. *Id.* at 9. At trial, Respondent Christian admitted to not showing Gool the photos of hickeys on Petitioner's neck, which directly contradicted Respondent Robb's account, and also provided no photos of the crime scene or Respondent Robb's appearance. *Id.* After the FRU's review, Respondent Christian sought and obtained approval to charge Petitioner with criminal sexual assault and aggravated battery, leading to Petitioner's 33-month stay in jail. *Id.*

Despite these omitted facts, the grand jury returned a true bill on 22 counts against Petitioner, based solely on Respondent Christian's testimony. Petitioner's trial took place in June 2016, and at the start of the trial, six of the charges were dismissed. *Id.* at 9-10. At the conclusion of the trial, Petitioner was found not guilty of all charges. *Id.* at 11.

In the civil case involving Petitioner and his claim for malicious prosecution against Detective Respondent Christian and the City of Chicago, the jury returned a verdict in Petitioner's favor. The jury awarded Petitioner \$6.4 million in damages, answering three special interrogatories in his favor. *Id.* These interrogatories were: (1) "Did Detective Christian act with malice?" with a response of "Yes"; (2) "Were the criminal proceedings against the plaintiff supported by probable cause at the time the proceedings were commenced?" with a response of

“No”; and (3) “Did Detective Christian commence or continue an original criminal proceeding against the plaintiff?” with a response of “Yes.” *Id.*

During the trial, Respondents made an oral motion for a directed verdict which the trial court took under advisement. *Id.* At the close of the Defendants’ case, they renewed their motion for a directed verdict, which the trial court reserved ruling on. *Id.*

Soon after the jury announced its verdict, the trial court heard argument from both parties on the directed verdict motion. *Id.* The court then granted the Defendants’ motion, finding that Petitioner had not proven three elements of malicious prosecution: (1) that Respondent Christian had commenced or continued a criminal proceeding against Petitioner, (2) the absence of probable cause for the proceeding, and (3) malice. *Id.* The trial court’s ruling focused solely on the evidence that it believed supported the Defendants’ case, ignoring any evidence that was favorable to Petitioner. This ruling was later affirmed on appeal. *Id.* at 11-12.

C. Procedural History

On February 21, 2020, a jury found Respondent Christian and the City of Chicago liable for maliciously prosecuting Petitioner Holt for a violent beating and rape that he did not commit. *Id.* at 2-3. The jury awarded Petitioner Holt \$6.4 million in damages. *Id.* at 3. Shortly after the jury announced its verdict, the trial court briefly heard argument from the parties on the directed verdict motion. The court then granted Respondents’ Motion for Directed

Verdict and/or Oral Judgment Notwithstanding the Verdict. *See id.* at 11-12.

Petitioner appealed the Circuit Court's granted Motion for Directed Verdict and/or Oral Judgment Notwithstanding the Verdict finding for Respondent's that a judgment. On June 30, 2022, the Illinois Court of Appeals, First District affirmed the Circuit Court's order. *Id.* at 12. On September 1, 2022, Petitioner petitioned the Supreme Court of Illinois for leave to appeal the appellate court's holding, however the petition was denied. *See* Pet. App. 3.

This Petition for Writ of Certiorari followed.

REASONS TO GRANT THIS PETITION

I. The bright-line rule created by the court below threatens to undermine the Fourth Amendment's requirement of reasonableness in determining probable cause and creates a circuit split.

The Appellate Court below issued a bright-line holding that probable cause exists whenever a purported victim makes an accusation, regardless of any other circumstances. This holding creates a division amongst federal and state courts, sets Illinois courts at odds with federal courts, and is in direct contradiction to the Supreme Court's decision in *Illinois v. Gates*, 462 U.S. 213 (1983), which requires a determination of probable cause based on the totality of the circumstances.

The Appellate Court's holding that "there is a presumption that [information from a purported victim of a crime] is inherently reliable," and that

“reports from purported victims or witnesses of crimes are sufficient to establish probable cause,” is a grave misapplication of the law and completely disregards this Court’s precedents and the United States Supreme Court’s decision in *Illinois v. Gates*, 462 U.S. 213 (1983).

The Supreme Court of Illinois has clearly stated that after *Gates*, “the rigidity embodied in the presumptions concerning the classifications [of the person providing information about a purported crime] is no longer applicable,” and that the assessment of probable cause in malicious prosecution suits “depends on the totality of the circumstances existing when defendants commenced the prosecution.” *People v. Kidd*, 175 Ill. 2d 1, 23 (1996); *Beaman v. Freesmeyer*, 2021 IL 125617, ¶ 117 (Ill. 2021). Accepting the Appellate Court’s holding creates a circuit split amongst State Appellate Courts in Illinois and further creates a split between federal and state jurisprudence.

The Appellate Court’s reliance on the case of *Sang Ken Kim v. City of Chicago*, 368 Ill. App. 3d 648 (1st Dist. 2006) is misguided and does not support its bright-line holding. In *Sang Ken Kim*, the Appellate Court stated that “[w]here the victim of the crime supplies the police with the information forming probable cause, there is a presumption that this information is inherently reliable.” *Id.* at 655 (emphasis added). However, it is important to note that the Appellate Court in *Sang Ken Kim* never suggested that such a presumption was irrebuttable and did not resolve the question of probable cause based solely on the victim’s information. The court

found that ample probable cause existed in part because the defendant detectives did not simply rely on the victim's statement and instead gathered substantial information that corroborated that statement. *Id.* at 655-56.

In stark contrast, the Appellate Court in this case goes far beyond *Sang Ken Kim* by holding that "there is a presumption that [information from a purported victim of a crime] is inherently reliable," and that "reports from purported victims or witnesses of crimes are sufficient to establish probable cause," regardless of any other circumstances or evidence. This bright-line rule negates the need for any additional investigation or corroboration and provides blanket immunity to law enforcement who engage in malicious prosecution so long as someone points the finger at the accused, regardless of the credibility of the individual or the information provided.

The rule articulated by the Appellate Court in this case would render all of the additional investigation discussed in *Sang Ken Kim* meaningless and would encourage law enforcement not to conduct thorough investigations. This Court should reject the Appellate Court's misapplication of *Sang Ken Kim* and instead follow the reasoning in that case, which emphasized the importance of corroboration and additional investigation in determining probable cause.

Federal courts have repeatedly emphasized that "a complaint of the putative victim or single witness is generally sufficient to establish probable cause, unless the officer has a reason to question the witness' account," and that "the complaint of a single witness

or putative victim alone generally is sufficient to establish probable cause to arrest unless the complaint would lead a reasonable officer to be suspicious, in which case the officer has a further duty to investigate.” *Reynolds v. Jamison*, 488 F.3d 756, 765 (7th Cir. 2007); *Beauchamp v. City of Noblesville*, 320 F.3d 733 (7th Cir. 2003); *Guzell v. Hiller*, 223 F.3d 518, 519-20 (7th Cir. 2000).

Given the evidence presented, the jury reasonably concluded that the total lack of any visible injuries to Respondent Robb was suspicious in light of the particular accusations she made and that more was required before probable cause could be established. The record at trial was overwhelmingly clear that Respondent Christian did nothing more to corroborate Respondent Robb’s information, permitting the jury to conclude that probable cause was absent at the time the prosecution against Petitioner Holt was commenced.

CONCLUSION

The bright-line rule created by the court below threatens to undermine the Fourth Amendment’s requirement of reasonableness in determining probable cause and creates a circuit split amongst Illinois appellate courts and state and federal jurisprudence. This Court’s review is necessary to ensure that the law on probable cause and malicious prosecution is properly interpreted and applied in accordance with the Constitution.

Respectfully submitted,

Robert L. Sirianni, Jr., Esq.

Counsel of Record

BROWNSTONE, P.A.

P.O. Box 2047

Winter Park, Florida 32790-2047

(o) 407-388-1900

robertsirianni@brownstonelaw.com

Counsel for Petitioner

Dated: April 12, 2023