

CASE NO. 22-5286

ORIGINAL

IN THE COURT OF THE UNITED STATES

JESSE JAMES PALATO, PETITIONER, PRO PER

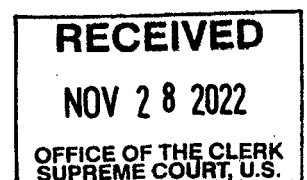
V

DWAYNE HAMILTON, PAROLE OFFICER, RESPONDENT

JERRY POWERS, DIRECTOR OF PAROLE OPERATIONS, RESPONDENT

ON WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

JESSE JAMES PALATO, PETITIONER



PETITIONER JESSE JAMES PALATO PETITIONS THIS COURT FOR REHEARING OF ITS OCTOBER 3RD, 2022 DECISION.

REQUIREMENTS OF REHEARING UNDER RULE 44:

A PETITION FOR THE REHEARING OF AN ORDER DENYING A PETITION FOR A WRIT OF CERTIORARI OR EXTRAORDINARY WRIT SHALL BE FILED WITHIN 25 DAYS AFTER THE DATE OF THE ORDER OF DENIAL. AND THE GROUND SHALL BE LIMITED TO INTERVENING CIRCUMSTANCES OF A SUBSTANTIAL OR CONTROLLING EFFECT OR TO OTHER SUBSTANTIAL GROUNDS NOT PREVIOUSLY PRESENTED.

THIS PETITION MEETS THESE REQUIREMENTS. MY ISSUE HERE IS FOR A WARRANTLESS ARREST MADE BY THE MONROVIA POLICE DEPARTMENT ON SEPTEMBER 2, 2014 FOR THEIR ARREST FOR COUNT 1 CONCERNING VICTIM CL FOR ALLEGEDLY SENDING CL INAPPROPRIATE MESSAGES THROUGH THE SOCIAL MEDIA PLATFORMS FACEBOOK AND KIK AND SUBSEQUENTLY BE CHARGE WITH CALIFORNIA PENAL CODE 288.3, "CONTACT WITH A MINOR FOR SEXUAL OFFENSE."

AS YOUR JUSTICES CAN SEE FROM THEIR PROBABLE CAUSE DECLARATION DETERMINATION REPORT THAT I INCLUDED WITH THE WRIT FOR CERTIORARI PETITION AS APPENDIX 004 OF THEIR REASONING FOR PROBABLE CAUSE.

REQUIREMENTS FOR A WARRANTLESS ARREST:

THE SUPREME COURT OF THE UNITED STATES HAS RULED THAT WARRANTLESS POLICE SEARCHES MAY COMPLY WITH THE 4TH AMENDMENT SO LONG AS IT IS REASONABLE UNDER THE CIRCUMSTANCES.

IN PART THE 4TH AMENDMENT READS; " 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 BE ISSUE, BUT UPON PROBABLE CAUSE, SUPPORTED BY OATH AND AFFIRMATION."

A POLICE OFFICER IS AUTHORIZED TO ARREST A PERSON WITHOUT AN ARREST WARRANT WHEN THE PERSON COMMITS AN OFFENSE IN THE PRESENCE OF THE OFFICER AND WHEN A PEACE OFFICER HAS PROBABLE CAUSE TO BELIEVE THAT A SUSPECT COMMITTED A FELONY.

ANOTHER EXAMPLE OF A JUSTIFIED WARRANTLESS ARREST IS EXIGENT CIRCUMSTANCES. WARRANTLESS SEIZURES AND ARREST MAY BE JUSTIFIED BY "EXIGENT CIRCUMSTANCES" AND THE SURROUNDING CIRCUMSTANCES MUST BE TANTAMOUNT TO AN EMERGENCY; SHOTS FIRED, SCREAMS HEARD, OR A FIRE EMANATING FROM INSIDE A BUILDING.

CALIFORNIA PENAL CODE 836:

CALIFORNIA PENAL CODE 836 PROVIDES FOR ARRESTS WITHOUT A WARRANT, AND READS AS FOLLOWS," A PEACE OFFICER MAY MAKE AN ARREST IN OBEDIENCE TO A WARRANT DELIVERED TO HIM, OR MAY WITHOUT A WARRANT, ARREST A PERSON FOR PUBLIC OFFENSE COMMITTED OR ATTEMPTED IN HIS PRESENCE." PEOPLE V PERRY CRIM A NO. 2249 MAY 7TH, 1947 ALSO STATES, "A WARRANTLESS ARREST NEEDS REASONABLE CAUSE FOR BELIEVING THE PERSON ARRESTED COMMITTED A FELONY."

IN MARYLAND V PRINGLE 540 U.S. 366 (2003) NO. 02-809 STATES, "UPON ARREST THE APPELLATE CONFESSED TO THE CRIME BUT THE SUPREME COURT HELD THAT THE POLICE AGENCY LACKED SUFFICIENT PROBABLE CAUSE TO BELIEVE APPELLANT COMMITTED THE CRIME." IT SEEMS LIKE THE APPELLANT COMMITTED THE CRIME BUT ON A TECHNICALITY HIS 4TH AMENDMENT RIGHT WAS VIOLATED.

IN UNITED STATES V DUENES UNITED STATES COURT FOR THE DISTRICT OF GUAM JUNE 12, 2017, 2017 U.S. DIST LEXIS 91480 IT STATES, "THE WARRANTLESS ARREST OF DEFENDANT VIOLATES HIS 4TH AMENDMENT RIGHTS. IT WAS NOT SUPPORTED BY SUFFICIENT PROBABLE CAUSE."

IN UNITED STATES V CHAMBERS 3RD CIR. U.S. DIST. U.S. COURT FOR THE DISTRICT OF DELAWARE SEPT. 12, 2017, 2017 U.S. LEXIS 147219 IT STATES, "A WARRANTLESS ARREST MUST BE ACCOMPANIED BY PROBABLE CAUSE."

IN ILLINOIS V GATES, 462 U.S. 213 SUPREME COURT (1983) THE UNITED STATES SUPREME COURT GRANTED CERTIORARI TO CONSIDER THE APPLICATION OF THE FOURTH AMENDMENT TO A MAGISTRATE ISSUANCE OF A SEARCH WARRANT ON THE BASIS OF A PARTIALLY CORROBORATED ANONYMOUS INFORMANT'S TIP. 405 U.S. 1140 (1982)

IN THE SAME SENSE I AM ASKING THIS COURT TO GRANT THIS PETITION FOR REHEARING TO CONSIDER THE FOURTH AMENDMENT AS IT PERTAINS TO MONROVIA POLICE DEPARTMENT'S WARRANTLESS ARREST AND SUBSEQUENT SEARCH OF MY PROPERTY BECAUSE THE VICTIM CL THINKS I SENT HER THOSE MESSAGES WHICH WAS FOUND TO NOT HAVE COME FROM ME.

THERE WAS SEARCHES CONDUCTED AFTER THEIR WARRANTLESS ARREST WHICH THEY SHOULD OF OBTAINED AN ARREST AND SEARCH WARRANTS BEFORE I WAS ARRESTED.

AGAIN THIS WAS FOR COUNT 1 OF THE INFORMATION FOR CALIFORNIA PENAL CODE 288.3, CONTACT WITH A MINOR FOR SEXUAL OFFENSE AS YOUR JUSTICES WILL SEE ON THEIR PROBABLE CAUSE DECLARATION DETERMINATION REPORT WHICH IS LOCATED IN APP 004 OF THE ORIGINAL CERT PETITION.

ALSO UNDER ILLINOIS V GATES THE UNITED STATES SUPREME COURT REQUESTED THE PARTIES TO ADDRESS AN ADDITIONAL QUESTION;

"WHETHER THE RULE REQUIRING THE EXCLUSION AT A CRIMINAL TRIAL OF THE EVIDENCE OBTAINED IN VIOLATION OF THE FOURTH AMENDMENT MAPP V. OHIO, 367 U.S. 643 (1961); WEEKS V. UNITED STATES, 232 U.S. 383 (1914), SHOULD TO ANY EXTENT BE MODIFIED, SO AS, FOR EXAMPLE, NOT TO REQUIRE THE EXCLUSION OF EVIDENCE OBTAINED IN THE REASONABLE BELIEF THAT THE SEARCH AND SEIZURE AT ISSUE WAS CONSISTENT WITH THE FOURTH AMENDMENT." 459 U.S. 1028 (1982)

AGAIN I WOULD LIKE TO HAVE THE SAME OPPORTUNITY AS IN GATES TO ARGUE THE REASONABLENESS OF MONROVIA'S SEARCH AND SEIZURE AS IT PERTAINS TO THEIR ARREST FOR COUNT 1 CONCERNING VICTIM CL. ARGUING HOW IS IT A REASONABLE BELIEF TO JUSTIFY A WARRANTLESS ARREST THAT I SENT THE SOCIAL MEDIA MESSAGES TO CL WHEN THERE ARE NO CONNECTING FACTORS LINKING ME? AGAIN THESE MESSAGES WERE NOT FOUND TO HAVE COME FROM ME, THEY WERE NOT ON MY SOCIAL MEDIA PAGE'S MESSAGES, THEY WERE NOT FOUND ON ANY OF MY DEVICES. WHAT THE THE MONROVIA POLICE DEPARTMENT HAD WAS ANONYMOUS MESSAGES AND THE VICTIM CL SAYING THAT I SENT HER THOSE MESSAGES WHICH IS BASELESS AND UNTRUE.

YOU CAN READ THE SOCIAL MEDIA MESSAGES THAT I INCLUDED IN THE ORIGINAL CERT PETITION IN APP 005 AND 006.

AGAIN THE DISCOVERY OF THOSE MESSAGES CAME FROM THE VICTIM CL AND NOT FROM ANY OF MY DEVICES AS THE RECORD SHOWS.

IN JOHNSON V UNITED STATES SUPREME COURT FED. 2, 1948 333 U.S. 10 POLICE OFFICERS AND NARCOTICS AGENTS ENTRY INTO DEFENDANT'S HOTEL ROOM BY COLOR OF OFFICE AND A SUBSEQUENT WARRANTLESS ARREST AND SEARCH VIOLATED THE FOURTH AMENDMENT AND REQUIRED REVERSAL OF HER CONVICTION.

U.S. V SANTANA SUPREME COURT OF THE UNITED STATES JUNE 24, 1976 427 U.S. 38 STATES, "THE WARRANTLESS ARREST OF AN INDIVIDUAL IN A PUBLIC PLACE UPON PROBABLE CAUSE DOES NOT VIOLATE THE FOURTH AMENDMENT."

AGAIN I AM ARGUING THAT ANONYMOUS SOCIAL MEDIA MESSAGES SENT TO VICTIM CL ON A GUESS WHO MIGHT OF SENT HER THOSE MESSAGES IS NOT PROBABLE CAUSE AND IN FACT VOLATES THE FOURTH AMENDMENT.

IN PAYTON V NEW YORK SUPREME COURT OF THE UNITED STATES APR. 15, 1980 445 U.S. 573 STATES IN PART, "WARRANTLESS FELONY ARREST VIOLATES THE 4TH AND 14TH AMENDMENT."

AGAIN CALIFORNIA PENAL CODE 288.3 IS A FELONY.

INCIDENT TO ARREST LIMITATIONS

THE SUPREME COURT REASONED THAT SEARCHES "INCIDENT TO ARREST" ARE LIMITED TO THE AREA WITHIN IMMEDIATE CONTROL OF THE SUSPECT. WHILE POLICE COULD REASONABLY SEARCH AND SEIZEON OR AROUND ARRESTEE'S PERSON. THER COURT EMPHASIZED THE IMPORTANCE OF WARRANTS AND PROBABLE CAUSE AS NECESSARY BULWARKS AGAINST GOVERNMENT ABUSE.

IN CHIMEL V CALIFORNIA (1969) ALSO KNOWN AS THE CHIMEL RULE, THE COURT FURTHER LIMITED THE EXCEPTION TO THE PERSON ARRESTED AND THE AREA WITHIN THEIR IMMEDIATE CONTROL " IN ORDER TO REMOVE ANY WEAPONS THAT THE [ARRESTEE] MIGHT SEEK TO USE IN ORDER TO RESIST ARREST OR EFFECT HIS ESCAPE" AND TO PREVENT THE " CONCEALMENT OR DESTRUCTION OF EVIDENCE.

IN RILEY V CALIFORNIA (2014) – THE UNITED STATES SUPREME COURT RULED THAT “POLICE GENERALLY MAY NOT, WITHOUT A WARRANT, SEARCH DIGITAL INFORMATION ON A CELL PHONE SEIZED FROM AN INDIVIDUAL WHO HAS BEEN ARRESTED. IN OTHER WORDS, UNLESS AN EXIGENT CIRCUMSTANCES IS PRESENT, POLICE MAY NOT SEARCH AN ARRESTEE’S CELL PHONE WITHOUT A WARRANT.”

AGAIN TO OBTAIN A SEARCH WARRANT IS THE SAME AS FOR A WARRANTLESS ARREST, THEY BOTH NEED PROBABLE CAUSE AND A REASONABLE BELIEF THAT THE SUSPECT COMMITTED THE CRIME.

AGAIN HOW CAN THERE BE A REASONABLE BELIEF THAT I COMMITTED CALIFORNIA PENAL CODE 288.3 THAT MONROVIA POLICE ARRESTED ME FOR BY ONLY GOING BY AN ANONYMOUS MESSAGE THAT DID NOT COME FROM ME AND ONLY GOING BY WHO THE VICTIM GUESSES WHO MIGHT OF SENT HER THE MESSAGES. I COULD UNDERSTAND THEY GET THE COMPLAINT BUT A COMPLAINT IS NOT PROBABLE CAUSE EITHER, THEY NEED TO DO SOME FORM OF CONNECTING ME TO THE CRIME FIRST THAT WOULD IN TURN GIVE THEM PROBABLE CAUSE TO ARREST ME.

AGAIN AS YOUR JUSTICES COULD READ FROM THE PROBABLE CAUSE REPORT IN APP 004 OF THE CERT PETITION THAT IS EXACTLY WHAT THE MONROVIA POLICE DEPARTMENT ARRESTED ME FOR AND THAT DOES NOT JUSTIFY A WARRANTLESS ARREST.

IN PRESTON V UNITED STATES, 376 U.S. 364 SUPREME COURT 1964 IT STATES IN PART, “WE GRANTED CERTIORARI, 373 U.S. 931 IN THE VIEW WE TAKE OF THE CASE, WE NEED NOT DECIDE WHETHER THE ARREST WAS VALID, SINCE WE HOLD THAT THE SEARCH AND SEIZURE WAS NOT.”

AND I AM ARGUING THAT THE WARRANTLESS ARREST FOR COUNT 1 OF THE INFORMATION CONCERNING CL, AS YOUR JUSTICES CAN SEE FROM THE PROBABLE CAUSE REPORT IN APP 004 OF THE CERT PETITION, THAT THE WARRANTLESS ARREST AND SEARCH OF MY PROPERTY LACKED SUFFICIENT PROBABLE CAUSE.

AGAIN LOOKING AT WHAT THE MONROVIA POLICE ARRESTED ME FOR WITHOUT A WARRANT FOR THEIR CHARGE OF CALIFORNIA PENAL CODE 288.3 WHICH THEY STATE ON THEIR PROBABLE CAUSE REPORT LACKS ANY PROBABLE CAUSE LET ALONE SUFFICIENT PROBABLE CAUSE. POLICE OFFICERS CAN MAKE A WARRANTLESS ARREST IF THE SUSPECT COMMITS A CRIME IN THE PRESENCE OF THE OFFICER AND WHEN THE OFFICER HAS PROBABLE CAUSE TO BELIEVE THAT A SUSPECT COMMITTED A FELONY.

WHETHER IT IS A WARRANTLESS ARREST OR A WARRANT TO SEARCH THE OFFICER NEEDS TO HAVE PROBABLE CAUSE AND A REASONABLE BELIEF THAT THE SUSPECT COMMITTED THE CRIME.

WITH THE CASE LAW I CITED IN THIS PETITION FOR REHEARING THE APPELLANTS EITHER HAD DRUGS AROUND OR ON THEIR PERSON, OR IT WAS A PARTIALLY CORROBORATED TIP OR SOME OTHER CIRCUMSTANCE TO GIVE THE ARRESTING OFFICER A BELIEF THAT PROBABLE CAUSE AND A REASONABLE BELIEF EXISTED.

SINCE MY ARREST WAS A WARRANTLESS ARREST EITHER I HAD TO COMMIT THE CRIME IN THE PRESENCE OF THE OFFICER OR THERE WERE EXIGENT CIRCUMSTANCES TO ARREST ME WITHOUT A WARRANT. WHICH NEITHER APPLIED TO ME.

ANY WARRANTS THAT CAME AFTER THE WARRANTLESS ARREST HAVE THE SOCIAL MEDIA MESSAGES ATTACHED TO THEM.

I WOULD LIKE TO GET THE OPPORTUNITY TO ASK WHAT IS THE REASONABLE BELIEF THAT MONROVIA POLICE HAD TO GIVE THEM THEIR PROBABLE CAUSE TO ARREST ME WHEN THEY FIRST DID NOT CONNECT ME TO THOSE MESSAGES, THOSE MESSAGES WERE NOT FOUND ON MY FACEBOOK PAGE OR ANY OF MY DEVICES.

I COULD UNDERSTAND THAT PROBABLE CAUSE EXIST IF THEY FOUND THE MESSAGES ON MY FACEBOOK PAGE OR ANY OF MY DEVICES.

THE FORENSIC SEARCH OF MY DEVICES WOULD OF PULLED UP ANY MESSAGES EVEN IF THEY WERE DELETED MESSAGES.

BY READING THE SOCIAL MEDIA MESSAGES THAT ARE INCLUDED IN APP 005 AND APP 006 OF THE CERT PETITION HOW CAN THEY JUSTIFY A WARRANTLESS ARREST FOR COUNT 1 CONCERNING THE MESSAGES SENT TO VICTIM CL.

A WARRANTLESS ARREST DOES NOT SATISFY THE 4TH AND 14TH AMENDMENT IF THERE IS NO PROBABLE CAUSE.

AGAIN JUST BECAUSE SOMEBODY THINKS SOMEONE DID A CRIME DOES NOT AMOUNT TO PROBABLE CAUSE FOR ARREST IF THAT PERSON DID NOT ACTUALLY SEE THE CRIME.

BY READING THESE MESSAGES IT IS HARD IF NOT IMPOSSIBLE TO CONNECT ANYONE LET ALONE ME AS THE SENDER OF THE MESSAGES TO JUSTIFY A WARRANTLESS ARREST AND SUBSEQUENTLY CHARGE ME WITH CALIFORNIA PENAL CODE 288.3.

I DO APOLOGIZE TO YOUR JUSTICES IN ADVANCE FOR THE WAY I AM TRYING TO GET MY POINT ACROSS, I MIGHT SAY SOMETHING OVER AND OVER AGAIN I AM NOT DOING THIS ON PURPOSE I DO NOT KNOW EXACTLY HOW TO ARGUE AND RESEARCH CASE LAW.

BUT WHAT I DO KNOW IS THAT MONROVIA POLICE, BY DEFINITION OF THE 4TH AMENDMENT DID NOT HAVE PROBABLE CAUSE FOR A WARRANTLESS ARREST BY USING INFORMATION THAT WAS FOUND TO NOT HAVE COME FROM ME. THIS IS A DIRECT VIOLATION OF MY 4TH AMENDMENT RIGHTS.

IN CONCLUSION;

THIS PETITION FOR REHEARING SHOULD BE GRANTED BECAUSE IT IS SUPPORTED BY WHAT THIS SUPREME COURT RULED ON WARRANTLESS ARRESTS, AND BY THE CASE LAW THAT I HAVE CITED AND BY THE RECORD ITSELF.

RESPECTFULLY SUBMITTED,

JESSE JAMES PALATO



October 28, 2022

NO. 22-5286

IN THE SUPREME COURT OF THE UNITED STATES

JESSE JAMES PALATO, PETITIONER, PRO PER

V

DWAYNE HAMILTON, PAROLE OFFICER, RESPONDENT

JERRY POWERS, DIRECTOR OF PAROLE OPERATIONS, RESPONDENT

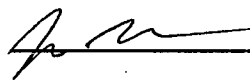
CERTIFICATION OF PETITIONER

**I, JESSE JAMES PALATO, A PRO PER PETITIONER, HEREBY CERTIFY THAT I PRESENT THE
ATTACHED PETITION FOR REHEARING IN GOOD FAITH AND NOT FOR DELAY.**

RESPECTFULLY SUBMITTED,

JESSE JAMES PALATO, PRO PER

DATED: November 18, 2022



JESSE JAMES PALATO, PRO PER