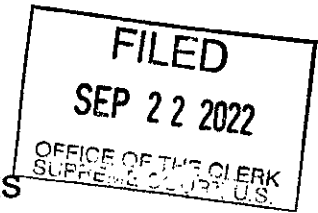


No. 22-5745 ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES



Deron Devaughn Mahone PETITIONER
(Your Name)

vs.

State of Georgia, et al RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals For The 11th Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Deron Devaughn Mahone
(Your Name)

3178 Mt Zion Church Road, P.O. Box 648
(Address)

Perham, Georgia 31779
(City, State, Zip Code)

None
(Phone Number)

QUESTION(S) PRESENTED

1. Would a reasonable officer have known that Officer Stewart's warrant affidavit failed to establish probable cause and that he should not have applied for the warrant?
2. Officer Stewart's affidavit described conduct that did not constitute home invasion on the only reasonable reading of the Georgia statute, as it had two missing essential elements. Should this court condone the seeking of an arrest warrant, arrest, try and convict a defendant with essential elements that the officer knew did not exist at the time the warrant was sought?
3. Does the arguable probable cause standard apply to Mr. Mahone's malicious prosecution claim where two essential elements of the crime at issue were known by the arresting officer to be missing - did not exist.
~~prosecution~~

QUESTION(3) PRESENTED

4. Would a reasonably well trained officer have known that his affidavit failed to establish probable cause because two essential elements did not exist, thereby not affording the officer qualified immunity?
5. Can a mistake of law, no matter how reasonable, support probable cause if a key element of the crime is still missing under the mistaken interpretation?

LIST OF PARTIES

[] All parties appear in the caption of the case on the cover page.

[X] 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:

- | | |
|--------------------------------|----------------------------|
| (1) State of Georgia | (5) Corporal Christy Papay |
| (2) Muscogee County, Georgia | (6) Kyle Van Noy |
| (3) Columbus, Georgia | (7) Zachary Stewart |
| (4) Columbus Police Department | (8) Wesley Lambertus |

RELATED CASES

- Mahone v State of Georgia, et. al. No. 4:19-cv-CDL-MSH. U.S. District Court for the Middle District of Georgia, Columbus Division. Judgment entered June 22, 2020.
- Mahone v State of Georgia, et.al. No. 20-14752-DD United States Court of Appeals for the 11th Circuit. Judgment entered July 1, 2022.
- Mahone v State, 823 S.E.2d 813 (Ga.Ct.App. 2019)

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

Set out in Table of Authorities attached
as APPENDIX I

STATUTES AND RULES

Ga. Code Ann. § 16-7-1(a)(1)
Ga. Code Ann. § 16-7-5(b)
U.S. Const. Amend. IV
42 U.S.C. § 1983

OTHER

TABLE OF CONTENTS

| | |
|--|---|
| OPINIONS BELOW..... | 1 |
| JURISDICTION..... | 2 |
| CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED | 3 |
| STATEMENT OF THE CASE | 4 |
| REASONS FOR GRANTING THE WRIT | 5 |
| CONCLUSION..... | 6 |

INDEX TO APPENDICES

| | |
|------------|---|
| APPENDIX A | U.S.C.A. 11 th Circuit opinion |
| APPENDIX B | USDC, MD GA final order |
| APPENDIX C | USDC, MD GA magistrate's Report and Recommendation |
| APPENDIX D | Judgment entered by U.S.C.A. 11 th Circuit |
| APPENDIX E | USDC, MD GA order allowing IFP status |
| APPENDIX F | USCA 11 th Cir. IFP granted |
| APPENDIX G | USCA 11 th Cir Attorney appointed |
| APPENDIX H | USCA 11 th Cir CIP (no changes since) |
| APPENDIX I | Table of Authorities |

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 unknown at this time; 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 unknown at this time; 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 1, 2022

☒ 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 _____.
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

Fourth Amendment to the United States Constitution
U.S. Const. amend. IV

Ga. Code Ann. § 16-7-1(a)(1)

Ga. Code Ann. § 16-7-5(b)

42 U.S.C. § 1983

STATEMENT OF THE CASE

Petitioner's claims arise from his arrest, prosecution, and conviction in Columbus, Georgia between 2015 and 2017. Defendant Van Noy arrested him without probable cause for home invasion even though he lived at the residence in question, and entered the residence without a weapon.

Petitioner was tried, convicted and sentenced to life imprisonment on December 22, 2017. His sentence was reversed due mainly to the fact, conceded by the defendants in the case (31983 case). Petitioner claimed and claims that he suffered pain, anxiety, depression, wrongful conviction, lost wages and defamation of character.

Qualified immunity was afforded the officer who falsely arrested/maliciously prosecuted the Petitioner by the 11th Circuit.

REASONS FOR GRANTING THE PETITION

The petition should be granted because there is no scenario where a criminal statute states the essential elements and two of them are obviously missing, yet the arresting officer procures an arrest warrant regardless and is afforded qualified immunity to a civil rights lawsuit.

This court should not allow qualified immunity where it is patently obvious that two essential elements of the crime do not exist and such a factual - legal situation cannot justify probable cause.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

De'lon Mahone

Date: September 22, 2022