No. ____

October Term, 2022

IN THE
Supreme Court of the United States

JOSEPH ISAIAH WOODSON, JR.,
***Petitioner*,**

v.

UNITED STATES OF AMERICA,
***Respondent*.**

On Petition for a Writ of Certiorari
to the United States Court of Appeals
for the Eleventh Circuit

PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED FOR REVIEW

In *United States v. Mendenhall*, 446 U.S. 544 (1980), this Court addressed the issue of whether an individual's "consent to accompany the agents was in fact voluntary or was the product of duress or coercion, express or implied." 446 U.S. at 557. Although the Court eventually held that the totality of the circumstances was sufficient to support a finding by the lower courts that the individual voluntarily consented to accompany the officers, the Court nevertheless outlined some of the relevant factors that weighed against such a finding. Specifically, citing *Schneckloth v. Bustamonte*, 412 U.S. 218, 226, 93 S. Ct. 2041, 2047 (1973), this Court noted that the individual's race and gender were relevant factors that a court could take into effect. *Id*. at 558. On appeal, Mr. Woodson, a young African-American male, argued that the Court needed to take his race into account to determine whether his custody, and thus his subsequent confession, was involuntary after more than a dozen armed police officers came into his home with weapons drawn and handcuffed Mr. Woodson for half an hour before interrogating him for an hour. The Eleventh Circuit held that the issue of voluntariness was close, but held that the officers' one statement that Mr. Woodson was not under arrest was sufficient to make the detention voluntary. However, the Eleventh Circuit failed to take Mr. Woodson's race into account in that analysis. This petition thus raises the following issue:

Question Presented:

> **Whether a court can take a defendant's race into account to determine whether the defendant's custody, and thus his subsequent un-Mirandized confession, is voluntary?**

INTERESTED PARTIES

There are no parties to the proceeding other than those named in the caption of the case.

RELATED CASES

United States v. Woodson, 18-cr-60256-JEM (S.D. Fl. 2020).

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PETITION FOR WRIT OF CERTIORARI

Mr. Joseph Isaiah Woodson, Jr., respectfully petitions the Supreme Court of the United States for a writ of certiorari to review the judgment of the United States Court of Appeals for the Eleventh Circuit, rendered and entered in case number 20-10443, in that court on April 13, 2022, *United States v. Woodson,* which affirmed the judgment and commitment of the United States District Court for the Southern District of Florida

OPINION BELOW

A copy of the decision of the United States Court of Appeals for the Eleventh Circuit, which affirmed the judgment and commitment of the United States District Court for the Southern District District of Florida, is contained in the Appendix (A-1).

STATEMENT OF JURISDICTION

Jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1) and Part III of the RULES OF THE SUPREME COURT OF THE UNITED STATES. The decision of the court of appeals was entered on April 13, 2022. On June 8, 2022, the court of appeals denied a timely petition for rehearing en banc. This Court granted an extension to file this petition until October 6, 2022. This petition is thus timely filed pursuant to Sup. Ct. R. 13.1. The district court had jurisdiction because petitioner was charged with violating federal criminal laws. The court of appeals had jurisdiction pursuant to 28 U.S.C. § 1291 and 18 U.S.C. § 3742, which provide that courts of appeals shall have jurisdiction for all final decisions of United States district courts.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Petitioner intends to rely upon the following constitutional provision:

U.S. Const., amend. V:

> No person shall be . . . compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law.

STATEMENT OF THE CASE

The Petitioner, Mr. Woodson was convicted in the Southern District of Florida on various child pornography and extortion charges. Mr. Woodson is currently incarcerated serving a fifty-year term of imprisonment.

STATEMENT OF FACTS

Mr. Joseph Isaiah Woodson, Jr., is a thirty-two year old African-American native of Washington, D.C. Presentence Report (PSR) ¶ 108. Mr. Woodson was raised by a single mother in very poor socio-economic conditions. PSR ¶ 109. His childhood, unfortunately, was very chaotic with his family moving frequently and even being homeless when he was just eleven. *Id.* Mr. Woodson is the oldest of six children and all of his five younger siblings suffer from some mental disorder. PSR ¶ 111. In fact, two of his younger sisters had severe mental issues and were often violent with family members including Mr. Woodson. *Id.* Eventually the two sisters were institutionalized for their safety and the safety of the family members. *Id.* As the oldest child, Mr. Woodson would often have to care for his younger siblings by himself even though they suffered from mental illness and were often violent.

Mr. Woodson also has some mental issues having been diagnosed with autism at age six and later suffering from anxiety and depression. PSR ¶ 119. Mr. Woodson is a first-time offender having never been previously convicted of any criminal offense in his life. PSR ¶¶ 101-103.

In the instant case, police agencies in Virginia and South Florida received reports from families of teenage girls stating that the girls had been victimized over the internet. The victims generally gave similar descriptions of the offense. Usually

the girls were approached on line by someone pretending to be an old friend or acquaintance who would ask them for the password to their social media account. Once that person had their password, the person would change the password and lock the girls out of their own social media accounts. The individual would then extort them to regain access to their own social media accounts. Typically, the individually would get the girls to take progressively more suggestive pictures or images of themselves with the promise that he would give them access to their own social media accounts. Eventually, the girls would end up nude, in sexual suggestive poses or performing sexual acts or acts of degradation.

The police traced the communications to the girls back to an internet protocol (I.P.) address in Virginia. The police then matched the I.P. address with a physical address that turned out to be the home where Mr. Woodson lived with family. Based on that information, the police obtained and executed a search warrant at the home. When the police executed the warrant, the police seized Mr. Woodson and his brother, the only males in the home. The police handcuffed them with their hands behind their backs and forced them to lay face down on the floor of their home. The police then interviewed first Mr. Woodson's brother and then Mr. Woodson individually inside a police vehicle. The police failed to inform Mr. Woodson of his rights and they failed to determine whether he was willing to waive his rights and answer questioning from the police. Mr. Woodson eventually confessed to the police as a result of the interrogation and handed over his cellphones.

A grand jury filed a second superseding indictment charging Mr. Woodson with three counts of production of child pornography (counts 1, 2, 3), one count of distribution of child pornography (count 4), one count of sending extortionate interstate communications (count 5), and one count of conspiracy to send extortionate interstate communications (count 6). (DE 67). Prior to trial, Mr. Woodson filed a motion to suppress the evidence obtained by the police when they executed the warrant at his home. (DE 31). Following an evidentiary hearing, a magistrate judge issued a report recommending that the motion be denied. (DE 57). Mr. Woodson filed objections to the report and recommendation. (DE 64). The district court issued an order adopting the magistrate judge's report and recommendation. (DE 66).

Mr. Woodson proceeded to trial. At the trial, several victims testified that their social media accounts had been hijacked. They testified that the person who took over the accounts made them take nude and sexually suggestive images of themselves and often had them do degrading acts like writing words on their nude bodies and inserting objects in their vaginas. Mr. Woodson testified on his own behalf. He essentially admitted to all of the charges but claimed that he only did it because another individual in Italy directed him to do it. He also claimed that the individual in Italy threatened to SWAT Mr. Woodson if he did not do as directed. SWATTING is a technique often used by individuals on line where a false police report of an emergency at the victim's home is called into the police resulting in an armed police (or SWAT team) response at the victim's home. Mr. Woodson testified that given the chaotic situation at home with his mentally ill siblings, he feared a swatting call

would result in a member of his family being shot. Following the jury trial, Mr. Woodson was found guilty on all counts. (DE 124). The district court sentenced Mr. Woodson to a fifty-year term of imprisonment. (DE 159). On appeal, a three-judge panel affirmed the district court in a published opinion and held that Mr. Woodson was not in custody for purposes of *Miranda*. *United States v. Woodson*, 30 F.4th 1295 (11th Cir. April 13, 2022). Mr. Woodson field a petition for rehearing en banc arguing that the panel's opinion conflicted with this Court's opinion in *United States v. Mendenhall*, 446 U.S. 544 (1980), because the court of appeals refused to take Mr. Woodson's race into account in deciding whether his custody, and thus his subsequent un-Mirandized confession, was voluntary. The court of appeals denied the petition.

REASONS FOR GRANTING THE WRIT

The Eleventh Circuit's published opinion is in direct conflict with this Court's decision in *United States v. Mendenhall*, 446 U.S. 544 (1980), where the Eleventh Circuit erroneously held that a criminal defendant's race cannot be taken into consideration in determining whether a seizure by the police is voluntary, and thus whether a subsequent confession without the benefits of a *Miranda* warning violates the Fifth Amendment.

Mr. Woodson argued on appeal that the fact that he was a young black male coupled with the strong show of force by the police and being handcuffed for half an hour immediately preceding his interrogation by the police was sufficient to demonstrate that he had a reasonable objective belief that he was in custody when he was interrogated for an hour by the police without first being given a *Miranda*[1] warning. In its opinion, the Eleventh Circuit acknowledged that Mr. Woodson argued on appeal that his race was a characteristic that should be considered in determining whether his custody was voluntary. Nevertheless, the Eleventh Circuit failed to take Mr. Woodson's race into account. *United States v. Woodson*, 30 F.4th 1295 n. 3 (11th Cir. April 13, 2022). Mr. Woodson filed a petition for rehearing en banc pointing out that failure to take his race into account in determining the voluntariness of his

[1] *Miranda v. Arizona*, 86 S. Ct. 1602 (1966)

custody and confession was contrary to this Court's opinion in *United States v. Mendenhall*, 446 U.S. 544, 558 (1980). The Eleventh Circuit denied the petition.

In *United States v. Mendenhall*, 446 U.S. 544, 558 (1980), this Court addressed the issue of whether an individual's "consent to accompany the agents was in fact voluntary or was the product of duress or coercion, express or implied." 446 U.S. at 557. Although the Court eventually held that the totality of the circumstances was sufficient to support a finding by the lower courts that the individual voluntarily consented to accompany the officers, the Court nevertheless outlined some of the relevant factors that weighed against such a finding:

> On the other hand, it is argued that the incident would reasonably have appeared coercive to the respondent, who was 22 years old and had not been graduated from high school. It is additionally suggested that the respondent, a female and a Negro, may have felt unusually threatened by the officers, who were white males. ***While these factors are not irrelevant***, *see Schneckloth v. Bustamonte*, 412 U.S. 218, 226, 93 S. Ct. 2041, 2047 (1973), neither were they decisive, and the totality of the evidence in this case was plainly adequate to support the District Court's finding that the respondent voluntarily consented to accompany the officers to the DEA office.

Id. at 558 (emphasis added). In *Schneckloth*, the Court, as here, addressed the question of whether an individual's confession was voluntary or whether the individual's "will has been overborne and his capacity for self-determination critically impaired." 412 U.S. at 225, 226. "In determining whether a defendant's will was overborne in a particular case, the Court has assessed the totality of all the surrounding circumstances – both ***the characteristics of the accused*** and the details of the interrogation." *Id.* at 226 (emphasis added).

Here, there is no issue regarding the initial seizure. In the early morning hours, over a dozen armed police officers served a search warrant on Mr. Woodson's home. While serving that search warrant, the police came into the home with their weapons drawn. The police handcuffed Mr. Woodson and kept him handcuffed for half an hour before interrogating him for an hour without the benefit of *Miranda* warnings. This Court has made clear that the application of force coupled with an intent to restrain movement is all that is necessary to find a seizure under the Fourth Amendment. *Torres v. Madrid*, 141 S. Ct. 989, 1003 (2021). The question raised on appeal is whether the continued custody of Mr. Woodson during the hour-long interrogation was voluntary.

Mendenhall makes clear that a court can take a suspect's race into account in determining the ***voluntariness*** of a seizure. The Eleventh Circuit's decision thus conflicts with this Court's precedent. As the panel noted in its opinion, the totality of the circumstances made this case a close call on the voluntariness of the seizure. Taking into account Mr. Woodson's race in light of the circumstances would have easily tipped the scales in favor of finding that Mr. Woodson's custody during the hour-long interrogation was not voluntary will and that the officer should have simply informed Mr. Woodson of his *Miranda* rights before beginning the interrogation.

The United States Constitution provides that "No person . . . shall be compelled in any criminal case to be a witness against himself." U.S. Const., amend. V. That basic right "had its origin in a protest against the inquisitorial and

manifestly unjust methods of interrogating accused persons." *Miranda v. Arizona*, 86 S. Ct. 1602, 1611 (1966) (quoting *Brown v. Walker*, 161 U.S. 591, 596-597, 16 S. Ct. 644, 646 (1896)). This Court noted the inherent dangers of a system that allowed such an interrogation: "if an accused person be asked to explain his apparent connection with a crime under investigation, the ease with which the questions put to him may assume an inquisitorial character, the temptation to press the witness unduly, to browbeat him if he be timid or reluctant, to push him into a corner, and to entrap him into fatal contradictions . . . made the system so odious as to give rise to a demand for its total abolition." *Id.* Unfortunately, those tactics were in full force when police came to Mr. Woodson's home on January 26, 2018, and got him to incriminate himself during an hour-long interrogation by the police where Mr. Woodson was never advised of his rights pursuant to *Miranda*.

The magistrate judge held an evidentiary hearing on Mr. Woodson's motion to suppress evidence based on an un-Mirandized custodial interrogation. The government's only witness was Detective Justin Oksanen with the Sheriff's Office in Lauden, Virginia. The defense called Brandon Woodson, Mr. Woodson's younger brother who was present when the police came to their home to execute the search warrant and Mr. Woodson also testified. The magistrate judge credited the testimony of both the detective and Brandon as truthful. (DE 57: 10, 11).

The government bears a "heavy burden" of demonstrating that statements obtained from an accused did not violate *Miranda*. *Hall v. Thomas*, 611 F.3d 1259,

1285 (11th Cir. 2010) (citing *Miranda*, 86 S Ct. at 1628). Here, the government plainly failed to meet its heavy burden of proof.

The sole government witness testified that in the early morning hours of January 26, 2018, approximately 15 police officers went to the Woodson home to execute a search warrant. (DE 65:9-12). The officers were armed and dressed in all black with body armor. However, the sole government witness was not present when the warrant was executed and police entered the home and initially detained Mr. Woodson and his family. The government strategically failed to call any officer who was present during that initial detention. That failure is key.

Brandon Woodson, whose testimony was credited by the Magistrate Judge as truthful, testified that in the early morning hours of January 26, 2018, a large group of police officers came to his home. (DE 65: 50-60). The officers were wearing black and had body armor. When the officers entered the home, they had their weapons, long rifles, drawn. Brandon further testified that the police handcuffed him and his brother with their hands cuffed behind their backs. Brandon also testified that he was terrified and that the police actions greatly upset his mentally disabled sister. Brandon testified that he and his brother were handcuffed for about half an hour until the detective came to interrogate them. (DE 65:58-59). Mr. Woodson also testified that he and his brother were handcuffed for about half an hour. (DE 65:83). Brandon's testimony contradicted the testimony of detective Oksanen in that the detective testified that Brandon and Mr. Woodson were no longer handcuffed when he arrived and Brandon testified that they remained handcuffed until at least when

the detective arrived. However, the Magistrate judge credited the testimony of Brandon over that of the detective on that point and found that the detective was mistaken on that fact. (DE 57:10).

Detective Oksanen testified that once he arrived at the scene he took an uncuffed Brandon to a police van parked outside and interrogated him without providing any *Miranda* warnings. The detective testified that he subsequently took an uncuffed Joseph Woodson to the police van and interrogated him without providing any *Miranda* warnings for an hour. Detective Oksanen testified that Mr. Woodson was told just once that he was not under arrest. The magistrate judge relied on that testimony in finding that Mr. Woodson was not in custody and thus, the police were not required to give Mr. Woodson any *Miranda* warnings prior to interrogating him in the police van for an hour. *Id.* at 11. The district court adopted the holding of the magistrate judge.

On appeal, the three-judge panel affirmed the district court in a published opinion and held that Mr. Woodson was not in custody for purposes of *Miranda*. *United States v. Woodson*, 30 F.4th 1295 (11th Cir. April 13, 2022). As noted above, the three-judge panel rejected Mr. Woodson's argument that his race was a characteristic that should have been taken into account in determining the voluntariness of his custody during his hour-long interrogation. *Id.* at 1305 n. 3.

A criminal suspect may not be subject to custodial interrogation unless he has been informed of, and knowingly and voluntarily waived, his Constitutional rights. *Miranda*, 86 S. Ct. at 1637. Failure to inform a suspect of those rights prior to the

start of a custodial interrogation requires the suppression of any statements made as a result of such an interrogation. *Id.*

An individual is in custody for purposes of *Miranda* if his freedom of movement during the interrogation is restrained to a degree associated with formal arrest. *Minnesota v. Murphy*, 465 U.S. 420, 430 (1984). The test is an objective test and requires the Court to examine the totality of the circumstances. *United States v. Lall*, 607 F.3d 1277, 1284 (11th Cir. 2010); *see also Howes v. Fields*, 565 U.S. 499, 509 (2012) (test with whether a reasonable person would feel free to leave interview). "[A] confession, in order to be admissible, must be free and voluntary; that is, must not be extracted by any sort of threats or violence, nor obtained by any direct or implied promises, however slight, nor by the exertion of any improper influence." *Bram v. United States*, 168 U.S. 532, 542, 543, 18 S. Ct. 183, 187 (1897).

In determining whether custody during an interrogation is voluntary, the Court must examine the specific characteristics of the accused. *Schneckloth*, 412 U.S. at 226. The race of the accused is a relevant factor in determining whether custody during an interrogation is voluntary. *Mendenhall,* 446 U.S. at 557-58.

Here, it is objectively reasonable that Mr. Woodson would have been intimidated by the excessive show of force by the police and by being handcuffed for half an hour so that his continued custody during the hour-long interrogation cannot be seen as voluntary. Fifteen officers wearing body armor and with weapons drawn entered the Woodson home. They handcuffed Mr. Woodson behind his back. He remained handcuffed for 30 minutes in his own home. His younger sister, who suffers

from mental illness, became visibly upset. A reasonable person would have felt in custody under those facts. That the detective subsequently said the magic words that Mr. Woodson was "not under arrest" was insufficient to un-ring the bell of police control and authority. Any reasonable person would still have felt under the control and authority of the police, especially in their own home with no place to go. As required by *Miranda*, the police should have informed Mr. Woodson of his rights before interrogating him. The police clearly knew what they were doing and their actions were specifically designed to circumvent the requirements of *Miranda*.

In addition, this case presents the very important effect of race on the voluntariness of police custody. A tragic reality is that in America, African Americans, especially young men, are killed by police officers at a much higher rate than White Americans. For example, a study published by the National Academy of Sciences found that "[b]lack men are about 2.5 times more likely to be killed by police over the life course than are white men." Frank Edwards, *Risk of Being Killed by Police Use of Force in the United States by Age, Race-ethnicity, and Sex*, 116 Proc. Nat'l Acad. Sci. U.S.A., 16793-94 (2019). A similar study published in the American Journal of Preventive Medicine on the use of lethal force by law enforcement concluded that the fatality rate for black people was 2.8 times higher than for white people. Sarah DeGue, *Deaths Due to Use of Lethal Force by Law Enforcement: Findings from the National Violent Death Reporting System, 17 U.S. States, 2009-2012*, 51 American J. of Preventive Med. S173 (2016).

"[A]s a matter of commonsense reality of police-citizen interactions, Black individuals from every background have long expressed that race can and does affect whether a citizen feels 'free to leave' a police encounter." *United States v. Knights*, 989 F.3d 1281, 1295-96 (11th Cir. 2021) (Rosenbaum, J. concurring). "[Black] citizens who believe that when they question the authority of the police, the response is often swift and violent, do not view themselves as having a choice to leave or end a police encounter." *Id*. at 1299. Mr. Woodson's race was an important individual characteristic that should have been taken into account by the panel in determining the voluntariness of Mr. Woodson's custody during the hour-long interrogation.

Here, fifteen police officers wearing body armor and with their firearms drawn entered the Woodson home in the early morning hours to execute a search warrant. Mr. Woodson, an African-American male, was handcuffed behind his back in his own home and he remained handcuffed for approximately half an hour. Even after having been uncuffed and being told that he was not under arrest, a reasonable person in Mr. Woodson's shoes would have not felt free to go anywhere. He was in custody and should have been provided with *Miranda* warnings and ensured that he understood those rights and that any waiver of those rights was knowing and voluntary. Under a totality of the circumstances, Mr. Woodson's constitutional rights were violated and the district court should have suppressed any statement made by Mr. Woodson and any evidence obtained as a result of the unlawful interrogation of Mr. Woodson. Because that evidence featured prominently in his trial and because it directly affected any possible defense against the charges and his decision whether to testify,

that error was not harmless. Mr. Woodson's confession provide the only direct evidence that Mr. Woodson was in fact the person who committed the offenses. The panel should have considered Mr. Woodson's race in determining the voluntariness of his custody. Because that failure conflicts with established precedent from this Court, this Court should grant a writ of certiorari to the Eleventh Circuit to clarify that a suspect's race may be taken into account to determine the voluntariness of a police detention and any subsequent un-Mirandized confession.

CONCLUSION

Based upon the foregoing petition, the Court should grant a writ of certiorari to the Court of Appeals for the Eleventh Circuit.

Respectfully submitted,

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