22-5978 ORIGINAL

No. _____

IN THE

SUPREME COURT OF THE UNITED STATES

RICHARD CRAWFORD — PETITIONER
(Your Name)

vs.

UNITED STATES OF AMERICA — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

RICHARD CRAWFORD
(Your Name)

FCI - Gilmer
P. O. Box 6000
(Address)

Glenville, West Virginia 26351
(City, State, Zip Code)

N/A
(Phone Number)

LIST OF PARTIES

[X] 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

QUESTION(S) PRESENTED

WHETHER A DETERMINATION BY THE LOWER COURTS THAT THE OFFICERS ONLY DETAINED THE PETITIONER, AND NOT ARRESTED HIM, WHICH FINDING WAS IN DIRECT CONFLICT WITH THE SWORN TESTIMONY OF ARRESTING OFFICERS, PRODUCED AN ARBITRARY AND CAPRICIOUS DECISION?

WHETHER THE LOWER COURTS ARBITRARILY DENIED PETITIONER AN EVIDENTIARY HEARING BY DRAWING INFERENCES FROM A COLD RECORD WHEN THE COURT'S RULING WAS IN DIRECT CONFLICT WITH SWORN TESTIMONY OF WITNESSES FOR THE GOVERNMENT?

SHOULD A CERTIFICATE OF APPEALABILITY HAVE BEEN GRANTED WHEN THERE WAS NO DISPUTE BETWEEN THE GOVERNMENT AND THE DEFENDANT/PETITIONER THAT THE PETITIONER HAD BEEN ARRESTED BUT THE LOWER COURTS MADE ITS OWN FINDING THAT PETITIONER HAD ONLY BEEN DETAINED?

TABLE OF CONTENTS

OPINIONS BELOW 1

JURISDICTION 2

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED 3

STATEMENT OF THE CASE 4

REASONS FOR GRANTING THE WRIT 8

CONCLUSION .....

INDEX TO APPENDICES

APPENDIX A Order of October 20, 2021, adopting Magistrate's Report and Recommendation

APPENDIX B Judgment of October 20, 2021

APPENDIX C Order denying Petition for Rehearing, dated July 14, 2022

APPENDIX D Order of July 29, 2022, denying petition for en banc review

APPENDIX E

APPENDIX F

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

[X] For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix "E" to the petition and is

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[X] is unpublished.

The opinion of the United States district court appears at Appendix "A" to the petition and is

[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[X] 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

[X] 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.

[X] A timely petition for rehearing was denied by the United States Court of Appeals on the following date: July 29, 2022, and a copy of the order denying rehearing appears at Appendix "D".

[ ] 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

STATEMENT OF THE CASE

Reacting to information from a unidentified source that Petitioner - Richard Crawford, would be leaving his apartment on a specific date, and at an approximate time, carrying a Gym-type bag in which a quantity of powder cocaine would be present, local law enforcement officers obtained a search warrant for the petitioner's aforesaid apartment. When the officers proceeded to execute the search warrant, they encountered the petitioner - Richard Crawford, already in the parking lot of his apartment complex, where he was preparing to enter a motor vehicle. The Petitioner was carring a Gym-type bag that had been described, by the officers source of information, as matching the container in which Richard Crawford stored powder cocaine. Consequently, the officers seized the Petitioner's aforesaid Gym-bag, and searched it for cocaine, but found no drugs or cocaine in it.

After informing Richard Crawford about their search warrant, the officers placed him in handcuffs, and secured him in one of the police vehicles. Two different officers advised petitioner of the "Miranda" rights. During subsequent court proceedings, the officers gave testimony that Richard Crawford was arrested at that point in time. No cocaine, or other items associated with drug dealing, was discovered until later, when officers entered the petitioner's apartment and commenced a search.

Following Crawford's arrest and arraignment in federal

court, a motion to suppress was filed. Following a hearing, the suppression hearing was denied. A jury trial resulted in the entry of guilty verdict on the illegal drug count. The sentence and verdict was affirmed on appeal. United States v. Crawford, 943 F.3d 297 (6th Cir.2019).

The instant petition addresses a post-conviction challenge brought by Richard Crawford, under 28 USC § 2255. One of the issues alleged was the ineffectiveness of trial counsel in regards to the Fourth Amendment violations which occurred when law enforcement officers made the warrantless arrest of Richard Crawford without probable cause. Officers arrested the petitioner before they had discovered illegal drugs in his apartment. The officers had not sought, and did not possess, a warrant for the arrest of Richard Crawford. They merely possessed a warrant authorizing the seizure of cocaine from a Gym-bag which an unproven informant had stated would contain cocaine, because that was where the petitioner stored his cocaine. Since the subject object of the search was seized by the officers before entering petitioner's apartment, there existed no right to extend the search beyond the Gym-bag, itself. No controlled substance was discovered in the Gym-bag. That should have terminated the search.

Included as one of the claims in petitioner's subsequent motion to vacate his conviction (28 USC § 2255) was a claim alleging that defense counsel was ineffective in arguing the suppression motion. Counsel's errors allowed the magistrate to dismiss the motion to vacate without conducting an evidentiary hearing through failing to correct an incorrect factual finding made by the magistrate, which was then adopted by the district court. In complete contradiction to the facts, and the sworn testimony of officers present at the scene where Richard Crawford was arrested, the magistrate concluded that Crawford was only "detained" while officers executed the subject warrant on his residence. Defense counsel failed to file any objections to this finding on the basis that not only was the magistrate abusing his discretion in making that finding, but he had acted arbitrarily and capriciously by doing so. The magistrate's ruling ignored both Supreme Court precedent governing Fourth Amendment jurisprudence, but, also, Sixth Circuit precedent. If the magistrate used his discretion to infer, from the facts, that the petitioner had only been detained, then that discretion could only be exercised following an evidentiary hearing where Richard Crawford could challenge inferences to be drawn from those facts. The magistrate acted arbitrarily and capriciously by

drawing inferences from a cold record, especially when that record supports petitioner's argument that he had been arrested. The record further contained the sworn testimony of an officer who placed Richard Crawford in handcuffs, and further secured him in the rear seat of a police cruiser. That officer testified that Richard Crawford was arrested. Also, two different officers issued Miranda warnings to him following his aforesaid arrest. Thus, the sole reasonable conclusion to be drawn is that a warrantless arrest was made of the petitioner at the scene, and prior to execution of the search warrant of Crawford's apartment.

REASONS FOR GRANTING THE PETITION

THE LOWER COURTS ACTED ARBITRARILY BY INFERRING THAT THE PETITIONER WAS MERELY DETAINED, WHEN THE GOVERNMENT'S PROOF ESTABLISHED THAT HE WAS ARRESTED.

In denying Richard Crawford's claim of ineffective assistance of counsel on the Fourth Amendment issue, the Magistrate totally ignored the sworn testimony of the law enforcement officers involved in the execution of the state search warrant, and Crawford's warrantless arrest. Those officers testified that Richard Crawford was under arrest after he was handcuffed and placed in the police cruiser. That event occurred prior to executing the [redacted] search warrant on Crawford's apartment. The officers gave testimony that, on the day in question, and at approximately 14:18 P.M., they witnessed Richard Crawford depart his apartment building, heading toward his vehicle. The arrest then occurred directly thereafter, at 14.23 P.M.

Sgt. Wilson testified to being the supervisor for the operation, and when the petitioner was taken into custody. See Suppression Hearing transcript, (April 19, 2018), at pages 8, 9,18, 19, 31 & 32. There was no testimony, or evidence, that the officers' feared for their safety, or that Richard Crawford carried a firearm, or otherwise was a danger to the officers health and safety. However, the officers' refused Crawford's request to accompany them into his apartment in order to observe their search. Neither would the

officers' permit Crawford to telephone his wife and tell her about his arrest, or the search warrant. Critically, petitioner's 14-year old daughter remained asleep in the apartment, yet, the officers' would not permit Crawford the right to awaken his daughter and inform of the planned search. Instead, the officers seized Crawford's keys from his pocket and used them to enter the apartment, where they undertook the task of awakening Crawford's daughter, and announcing their intention to search. It is unknown if the officers searched the person of petitioner's daughter. The warrant did not authorize the search of any person found in the apartment.

The facts and testimony make it abundantly clear that Richard Crawford was arrested prior to execution of the search warrant on the apartment. Orozco v. Texas, 394 U.S. 324, 326-27 (1969). Absent a reason to suspect that Richard Crawford posed a threat to the officers safety, or was a dangerous individual who carried weapons, there existed no reason to place him in handcuffs, then to isolate him from his residence and family by placing him in a police cruiser with locked doors, with no right to speak with anyone. See Kowolonell v. Moore, 463 Fed.Appx. 531, 536 (6th Cir.2012)

(ruling that if a suspect is unarmed, but, nonetheless, presents a risk to the officers safety, then handcuffing and detention in a cruiser may qualify as a reasonable tactic).

Although the officers were executing a search warrant, the supporting affidavit made no mention that evidence of any illegal transaction would be found in the petitioner's apartment, or that drugs were stored at the apartment. There was no allegation that Crawford had sold illegal drugs from his apartment. Instead, the unproven informant merely stated a belief that the petitioner would have powder cocaine in a Gym-bag which he would be carrying on the date and time in question. There was no cocaine in the Gym-bag, or evidence that cocaine had been present in the Gym-bag at some point in the past. Consequently, the officers warrantless arrest of Richard Crawford was totally lacking in probable cause. Even under Terry v. Ohio, 392 U.S. 1 (1968), there existed no reasonable suspicion to detain Richard Crawford after a search of the Gym-bag disclosed no evidence it was being used to carry cocaine. See Michigan v. Summers, 452 U.S. 692 (1981)(ruling that an occupant can be detained until evidence establishing probable cause to arrest is found).

The facts established in this case demonstrate that the petitioner was forced to sit, handcuffed, in the rear seat of

a police cruiser, for 76 minutes, while officers conducted a search of his apartment. During that time, despite repeated requests, officers refused to advise Richard Crawford of the reason for his warrantless arrest. The officers merely advised that they were there to search for evidence of cocaine trafficking.

The issuance of Miranda warnings to Richard Crawford signalled that he was under arrest even though he was not informed of the reason. Those Miranda warnings were then followed by questioning from the officers where they made repeated attempts to extract a confession from him. When that technique failed, the officers switched tactics by threatening to not only destroy the apartment, but to arrest Crawford's wife and daughter if cocaine was found. Agent Boyd is recorded on a video as making the following threat: "If you don't tell us where the shit is, we're going to tear up Amber's and your daughter's shit. Just tell us where the shit is." Government's "Exhibit 4A".

The subject search warrant was premised on an informant's uncorroborated allegation that Richard Crawford would be leaving his apartment, at a specified address, on June 29, 2017, at approximately 2:30 P.M., carrying a Gym-bag, in which a quantity of cocaine would be present. Obviously, the

informant's "tip", standing alone, was insufficient to establish probable cause for either an a warrantless arrest of Richard Crawford, or to obtain an arrest warrant. Mott v. Mayer, 524 Fed.Appx. 179 (6th Cir.2013). Mysteriously, the officers elected to bypass the normal police practice of setting-up a controlled buy between their unproven informant and Richard Crawford. Such a maneuver would have supported a warrantless arrest, assuming that Richard Crawford actually possessed a controlled substance, and engaged in a subsequent drug transaction with the informant. United States v. Gulley, 780 Fed. Appx. 275 (6th Cir.2019). But, that did not occur, and when the search of Crawford's Gym-bag proved the falsity of the informant's allegation, the officers were under an obligation to inform the magistrate that the basis of the search warrant no longer existed. Probable cause no longer existed to support a search of petitioner's apartment since the informant's credibility evaporated and was not reliable as an informant. It constituted a clear violation of the Fourth Amendment for the officers to use the search warrant as justification to invade the privacy of Richard Crawford, his wife, and daughter, when they were on notice that probable cause no longer existed.

An inference exist that the officers were fully aware and cognizant that probable cause did not exist to search petitioner's apartment (following their failure to find a controlled substance in the Gym-bag), because of their conduct in arresting him by placing petitioner in handcuffs, and securing his body in a police cruiser. The fact that he had been arrested is further demonstrated from their admission to reading Crawford his Miranda rights. It was, at this point, that the officers commenced coercive tactics in order to gain a right to enter petitioner's apartment under the guise of a search warrant that was unsupported by probable cause. The officers threatened to arrest the petitioner's wife, and daughter, if he didn't admit to having some illegal drug in the apartment. Consequently, the petitioner confessed to there being some outdated cocaine hidden inside the apartment which his family knew nothing about.

The foregoing analysis was never argued by defense counsel to the district court, or the appeals court, in a motion to suppress, or on direct appeal. The ensuing post-conviction collateral challenge, via 18 USC § 2255), used the above-recited facts and legal argument as a basis for

a claim of petitioner being denied his Sixth Amendment right to be represented by competent and effective counsel. While the Fourth Amendment was raised during Crawford's direct appeal, the doctrine of "res judicata" does not apply to a habeas corpus proceeding. Waley v. Johnston, 316 U.S. 101, 105 (1942); and Salinger v. Loisel, 265 U.S. 224, 231 (1924). Therefore, the lower courts dismissal of the petitioner's § 2255 motion was arbitrary and capricious since they have ignored Supreme Court precedent on this issue. "When an opportunity to be heard is denied altogether, the ensuing mandate of the court is void, and the prisoner confined thereunder may have recourse to habeas corpus to put an end to the restraint." Sunal v. Large, 332 U.S. 174, 183 (1947) (citing Escoe v. Zerbst, 295 U.S. 490, 494 (1935)).

Petitioner's § 2255 motion was denied because the magistrate concluded that the admissibility of Crawford's confession had already been decided on his direct appeal. The district court adopted the magistrate's findings and recommendations. Thus, the magistrate engaged in no analysis of the facts, or applicable law governing the warrantless arrest, and whether evidence acquired as a direct result of that illegal arrest could be used to support probable cause

to search Crawford's apartment. The magistrate, and district court, found that the petitioner's confession was the basis for supporting admission into evidence the cocaine seized from the apartment, and not the informant's uncorroborated statements. That ruling was clearly erroneous in light of jurisprudence dealing with warrantless arrests. See Brown v. Illinois, 422 U.S. 590 (1983)(holding that "despite the giving of the warning required by the Miranda decision, the Fourth and Fourteenth Amendments require the exclusion from evidence of statements obtained as the fruits of the arrest which arresting officers knew or should have known was without probable cause or unconstitutional.").

In Brown v. Illinois, supra, the Supreme Court considered whether a propely Mirandized confession should be suppressed if the confession was given following an unlawful arrest. It held that the giving of the Miranda warning could not, by itself, purge the effect of the unlawful arrest. In accord: United States v. Gutierrez, 699 F.Supp. 608 (5th Cir. 1988); and United States v. Webster, 750 F.2d 307, 324 (5th Cir.1984)(holding that Miranda warnings alone do not break the causual connection between the illegal arrest and the subsequent statement); and United States v. Jackson, 1998 U.S.

App.LEXIS 33161 (6th Cir.)(quoting Brown v. Illinois, 422 U.S. 590, 622 (1983)). Any confession flowing from an illegal arrest must be "sufficiently an act of free will to purge the primary taint . . ." Brown v. Illinois, 422 U.S. at 602 (citing Wong Sun v. United States, 371 U.S. 471, 486 (1963)). See, also: United States v. Wolfe, 166 Fed.Appx. 228 (6th Cir.2006)(finding the absence of probable cause to support the warrantless arrest, which caused an involuntary confession).

Questions propounded by jurors during deliberations clearly demonstrate that the guilty verdict was premised on Richard Crawford's statements elicited by officers following his unlawful arrest. In addition, jurors requested a replay of the cam video recording in which an officer coerced the petitioner to reveal whether cocain was stored in the apartment. Therefore, the lower courts clearly erred by denying Richard Crawford's collateral challenge to his conviction for possessing cocaine, or, at a minimum, ordering an evidentiary hearing. The denial conflicts with not only this Court's Fourth Amendment jurisprudence, but with judicial opinions from other circuits, including its own circuit. See Michigan v.Summers, supra; United States v. Bailey, 743 F.3d

322 (2nd Cir.2014); United States v. Rivera-Padilla, 395 Fed.Appx. 343 (3rd Cir.2009)(reasoning that defendant's confession could not be used as evidence, even though the temporal time span covered five hours between his unlawful arrest, and confession, as there were no intervening events to break the chain, and but for the agents utilization of the fruits of violating defendant's 4th and 5th Amendments rights, then there would have been no confession to the crime).

The facts surrounding the warrantless arrest of Richard Crawford demonstrate that it did not follow from good police work. Other than an allegation of an unproven informant, who was seeking a favor to avoid prosecution, officers were not aware of Crawford's possibly being in possession of a small quantity of powder cocaine. Based solely on the informant's allegation, a search warrant issued for Crawford's apartment. There was no evidence that controlled substances were being stored at the apartment, or distributed therefrom. Consequently, this was not a general search warrant, but one permitting officers to seize a particular item (Gym-bag), and to search it for cocaine. United States v. Ables, 167 F.3d 1021, 1033 (6th Cir.1999)(stating that a description is valid

"if it is as specific as the circumstances and the nature of the activity under investigation permit")(quoting United States v Henson, 848 F.2d 1374, 1383 (6th Cir.1988)); and United States v. Clark, 31 F.3d 831, 836 (9th Cir.1994)(ruling that the phrase "fruits and instrumentalities of [a] violation of Title 21 U.S.C. § 841(a)(a)", in a search warrant, rendered it facially overbroad). Officers seized the Gym-bag prior to executing the search warrant. Thus, no valid reason existed for entering the apartment in order to search for an item which officers had already seized outside of the apartment. The supporting affidavit failed to allege that the apartment was the situs of drug sales, or that illegal drugs were stored at the location. The informant provided no details as to Crawford's source, or sources, or even if he maintained a supply of cocaine which was used to distribute rather than for personal use, or sharing with friends.

Nothing eliminated the fact that Crawford stored a personal use quantity of cocaine at the local fitness center, where he would have provided some to the informant, but h warrantless arrest aborted that. Prudent agents would have conducted another controlled buy in order to corroborate the intomant's allegations made toward the petitioner prior to seeking a search warrant for petitioner's residence. Instead, agents relied on the Gym-bag as grounds for his arrest, which

was not supported by probable cause.

The Fourth Amendment to the United States Constitution provides that individuals have a right to "be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures." U.S. Const. amend. IV. To that end, government agents may not perform a warrantless arrest or search a protected area without probable cause. See, e.g., United States v. Watson, 423 U.S. 411, 417-24 (1976); and United States v. Abdi, 463 F.3d 547, 557-58 (6th Cir.2006).

To determine whether authorities had probable cause to arrest an individual without a warrant, courts must "examine the events leading up to the arrest, and then decide 'whether these historical facts, viewed from the standpoint of an objectively reasonable . . . officer, amount to' probable cause." Maryland v. Pringle, 540 U.S. 366, 371 (2003)(quoting Ornelas v. United States, 517 U.S. 690 (1996)). There is one exception to the general rule that searches conducted outside the judicial process are "per se" unreasonable. It is a search incident to a lawful arrest. Arizona v. Gant, 129 S.Ct. 1710, 1716 (2009)(citing United States v. Robinson, 414 U.S. 218, 230-34 (1973); and California v. Chimel, 395 U.S. 752, 763 (1969)). Under this exception, authorities can search an arrestee's person and the area within his immedi-

ate control. United States v. McCraney, 674 F.3d 614, 618-619 (6th Cir.2012). As such, in this case, authorities were not allowed, nor possessed legal authority, to lawfully seize and search the person of Richard Crawford since they lacked probable cause to arrest him.

Here, to determine if authorities had probable cause to arrest Richard Crawford, it was necessary for the lower courts to examine the facts known to the officers before his arrest viewed through the lens of an objectively reasonable officer and, based on common-sense and the totality of the circumstances, then determine if there was probable cause for the warrantless arrest. To accomplish this, the lower courts did not review and consider the relevant facts known to officers prior to the arrest of Richard Crawford.

First, officers were aware that the informant's prior information, concerning alleged drug activities of Richard Crawford, was either false, or non-existent. Although the officers had previously, based on the informant's statements, obtained a warrant to place a GPS Tracking Device on Richard Crawford's motor vehicle, the data derived therefrom failed to show that Crawford was associating with known drug suppliers, or drug customers.

Second, the search of Richard Crawford's cell-phone records failed to support the informant's assertions that Crawford was contacting various drug suppliers. That records search proved negative.

Third, the informant's statement that Richard Crawford would be carrying cocaine in a Gym-bag when he left his apartment on the date and time when officers arrived to execute the subject search warrant, proved to be false. There was no controlled substance in Crawford's Gym-bag.

The foregoing instances when the informant's statements were either false, or made from a lack of knowledge concerning Richard Crawford, were totally omitted from the application submitted to obtain a search warrant for Crawford's apartment. Instead, the affiant merely made a conclusory statement that the informant was reliable because, at some distant time in the past, an arrest of some unknown person was premised on his allegation. However, no disposition of that arrest was revealed, i.e., whether it was dismissed, etc.

The defense attorney for Richard Crawford totally ignored the foregoing facts in his pre-trial motion to suppress the incriminating statements of Richard Crawford that were made subsequent to his warrantless and unlawful arrest. In order to circumvent the patent unlawfulness of Crawford's arrest,

the lower courts concluded that Richard Crawford was not arrested, but was only being "detained". That conclusion was in direct conflict of the sworn testimony of the officers who placed Crawford in handcuffs, and read him his Miranda rights. They clearly testified that Richard Crawford was under arrest.

A district court abuses its discretion when it "acts arbitrarily or irrationally," "fails to consider judicially recognized factors constraining its exercise of discretion," "relies on erroneous factual or legal premises," or "commits an error of law." United States v. High, 997 F.3d 181, 187 (4th Cir.2021). It cannot be seriously contested that the district court, in denying Richard Crawford's "motion to vacate" (28 USC § 2255), relied on an erroneous factual premise, i.e., that Crawford was only being detained. The sworn testimony of the arresting officers, plus all reasonable inferences to be drawn from the facts surrounding the event, and the officers conduct, demonstrate that Richard Crawford had been arrested.

It was an abuse of discretion, and constituted a suspension of the great writ, to deny Richard Crawford an evidentiary hearing in this matter. "The hearing is mandatory

unless the motion and the files and records of the case conclusively show that the prisoner is entitled to no relief." Fontaine v. United States, 411 U.S. 213, 215 (1973). "[A[section 2255 petitioner's burden 'for establishing an entitlement to an evidentiary hearing is relatively light.'" Smith v. United States, 348 F.3d 545, 550 (6th Cir.2003) (quoting 28 USC § 2255). "A district court's refusal to conducct evidentiary hearing is reviewed for an abuse of discretion. Docherty v. United States, 536 Fed.Appx. 547, 551 (6th Cir.2013). Instantly, an evidentiary hearing was required since the record failed to refute petitioner's claim of being arrested without probable cause. United States v. Donn, 661 F.2d 820 (9th Cir.1981). Officers lacked authority to reach into Crawford's pockets and seize items therefrom if he was only being detained. United States v. Aquino, 674 F.3d 918 (8th Cir.2012).

CONCLUSION

Petitioner requests the Court to grant this Petition for for a Writ of Certiorari, or other appropriate Order; and The petition for a writ of certiorari should be granted.

Respectfully submitted,

Richard Crawford

Date: October 25, 2022