

No. 22-7742

ORIGINAL

Supreme Court, U.S.
FILED

MAR 18 2023

OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

KEIT TAYLOR — PETITIONER
(Your Name)

THE PEOPLE OF THE vs.
STATE OF CALIFORNIA, — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

THE SUPREME COURT OF THE STATE OF CALIFORNIA
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

KEIT TAYLOR
(Your Name)

P.O. BOX 61165
(Address)

PALO ALTO, CALIFORNIA, 94306.
(City, State, Zip Code)

1 (415) 573-6636
(Phone Number)

QUESTION(S) PRESENTED

1. HOW CAN THE DIRECT APPEAL BE HELD INTO SUBMISSION FOR APPROXIMATELY (3) THREE YEARS, FROM SEPTEMBER 27, 2017, UNTIL JANUARY 17, 2020, WHEN THE PETITIONER HAS A RIGHT TO FILE A TIMELY APPLICATION FOR A WRIT OF HABEAS CORPUS ON BEHALF OF A PERSON IN CUSTODY, PURSUANT TO THE JUDGMENT OF A STATE COURT.
2. HOW IS THE PETITIONER ABLE TO EXHAUST THE REMEDIES AVAILABLE IN THE COURTS OF THE STATE, WHEN THE DIRECT APPEAL WAS HELD APPROXIMATELY (3) THREE YEARS INTO SUBMISSION FROM SEPTEMBER 27, 2017, UNTIL JANUARY 17, 2020.
3. WAS THERE A UNITED STATES CONSTITUTION, AMENDMENT FIVE (5) VIOLATION IN MY CASE.
4. DOES THE PETITIONER HAVE A RIGHT TO MIRANDA WARNINGS, BEFORE INTERROGATIONS CONDUCTED BY LAW ENFORCEMENT.
5. DOES THE PETITIONER HAVE A RIGHT TO SUPPRESS THE EVIDENCE ON DUE PROCESS GROUNDS.

QUESTION(S) PRESENTED

6. DOES TAKEN THE DIRECT APPEAL INTO SUBMISSION FOR APPROXIMATELY (3) THREE YEARS, AFTER CONVICTION AND SENTENCE IN THE STATE COURT, CONSTITUTE A VIOLATION UNDER 28 U.S.C. 2263(A).
7. IS THERE A ABSENCE OF AVAILABLE STATE CORRECTIVE PROCESS.
8. DOES CIRCUMSTANCES EXIST THAT RENDER SUCH PROCESS INEFFECTIVE TO PROTECT THE RIGHTS OF THE APPLICANT.

LIST OF PARTIES

- ☒ 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

COERCION

ROSCOE V. HUNTER, (1944, CA 10 KAN) 144 F 2d 91.

MITCHELL V. HENDERSON, (1970, CA 5 LA) 432 F 2d 435.

CUSTODY

LEWIS V. DELAWARE STATE HOSPITAL, (1980, DC DEL) 490 F SUPP 177.

BARONE V. BROWN, (2001, DC NJ) 126 F SUPP 2d 805.

CERTIORARI

R.S., SEC. 716, "ALL WRITS ACT" [28 USCS SEC. 1651]. MCCLELLAN V. CARLAND, (1910) 217 US 268, 54 L ED 762, 30 S CT 501.

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APPENDIX A	THE UNITED STATES COURT OF APPEALS, FOR THE NINTH CIRCUIT, 12/19/2022 ORDER, NO. 21-16164, D.C. NO. 3:20-cv-06319-VC,
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APPENDIX C	THE SUPREME COURT OF CALIFORNIA, LETTER RETURNING PETITION 08/14/2020 FOR REVIEW UNFILED, CASE NUMBER H047974
APPENDIX D	THE COURT OF APPEAL, OF THE STATE OF CALIFORNIA, SIXTH APPE- 07/17/2020 LLATE DISTRICT, CASE NUMBER AP002265, PETITION DENIED
APPENDIX E	THE SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA, APPE- 01/17/2020 LLATE DIVISION, OPINION, CASE NUMBER C1522785,
APPENDIX F	THE SUPERIOR COURT, OF THE STATE OF CALIFORNIA, COUNTY OF 08/22/2017 SANTA CLARA, STATE TRIAL COURT, CASE NUMBER C1522785, ORDER OF CONVICTION, DEPARTMENT 50, DATE: AUGUST 22, 2017.

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

- (MIRANDA V. ARIZONA, (1966) 384 U.S. 436).
(PEOPLE V. WHITSON, (1998) 17 CAL. 4TH 229, 248).
(PEOPLE V. SIMS, (1993) 5 CAL. 4TH 405, 440).
(COLORADO V. CONNELLY, (1986) 479 U.S. 157).
(FARE V. MICHAEL C., (1979) 442 U.S. 707, 724, 725).
(MORAN V. BURBINE, (1986) 475 U.S. 412).

STATUTES AND RULES

- (28 U.S.C., SECTION 2263(A).
(28 U.S.C., SECTION 2263(b)(2).
(28 U.S.C., SECTION 2263(3)(b).
(28 U.S.C., SECTION 2254).
(28 U.S.C., SECTION 2254(b)(1).
(28 U.S.C., SECTION 2254(b)(1)(A).
(28 U.S.C., SECTION 2254(b)(1)(B).
(28 U.S.C., SECTION 2254(b)(1)(B)(i).
(28 U.S.C., SECTION 2254(b)(1)(B)(ii).

OTHER THE UNITED STATES CONSTITUTION

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 _____; 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 _____; 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 C. 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 STATE, COURT OF APPEALS, OF CALIFORNIA court appears at Appendix D. 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 DECEMBER 19, 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 AUGUST 14, 2.
A copy of that decision appears at Appendix C.

☐ A timely petition for rehearing was thereafter denied on the following date: N/A, 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. PENDING

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL PROVISIONS INVOLVED
UNITED STATES CONSTITUTION, AMENDMENT 5 :

NO PERSON SHALL BE HELD TO ANSWER FOR A CAPITAL, OR OTHERWISE INFAMOUS CRIME, UNLESS ON A PRESENTMENT OR INDICTMENT OF A GRAND JURY, EXCEPT IN CASES ARISING IN THE LAND OR NAVAL FORCES, OR IN THE MILITIA, WHEN IN ACTUAL SERVICE IN TIME OF WAR OR PUBLIC DANGER; NOR SHALL ANY PERSON BE SUBJECT FOR THE SAME OFFENSE TO BE TWICE PUT IN JEOPARDY OF LIFE OR LIMB; NOR 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; NOR SHALL PRIVATE PROPERTY BE TAKEN FOR PUBLIC USE, WITHOUT JUST COMPENSATION.

IN CONCLUSION

STATEMENT OF THE CASE

IN THE PRESENT CASE, THE POLICE OBTAINED STATEMENTS FROM MR. TAYLOR DURING A CUSTODIAL INTERROGATION IN WHICH THERE WAS NO PROPER WAIVER OF HIS MIRANDA RIGHTS. OFFICER CUSIMANO DETAINED MR. TAYLOR FOLLOWING A DISPATCH REGARDING A SUSPECT BRANDISHING A PAIR OF SCISSORS. UPON DETAINING MR. TAYLOR, OFFICER CUSIMANO PAT SEARCHED MR. TAYLOR WHICH DID NOT REVEAL ANYTHING. OFFICER CUSIMANO THEN INTERROGATED MR. TAYLOR REGARDING THE LOCATION OF THE SCISSORS. MR. TAYLOR WAS NEVER ADVISED OF HIS MIRANDA RIGHTS AND WAS NOT FREE TO LEAVE. DURING THE COURSE OF THIS CUSTODIAL INTERROGATION, MR. TAYLOR INDICATED THAT THE SCISSORS WERE INSIDE OF HIS BOOK BAG. OFFICER CUSIMANO THEN SEARCHED MR. TAYLOR'S BOOK BAG, AND LOCATED A PAIR OF SCISSORS. MR. TAYLOR WAS THEN PLACED UNDER ARREST.

BECAUSE THE STATEMENT WAS OBTAINED AFTER A MIRANDA VIOLATION, IT SHOULD BE SUPPRESSED. WHEN A STATEMENT IS SUPPRESSED ON DUE PROCESS GROUNDS, THE FRUITS OF THAT CONFESSION ARE ALSO TO BE SUPPRESSED. THEREFORE, THE SCISSORS FOUND IN MR. TAYLOR'S BOOK BAG SHOULD ALSO BE SUPPRESSED.

FURTHERMORE, DURING THE POLICE INTERROGATION MR. TAYLOR WAS AGAIN NEVER ADVISED THAT HE HAS A RIGHT TO HAVE AN ATTORNEY PRESENT BEFORE OR DURING INTERROGATION TO PROTECT HIS RIGHTS AGAINST SELF-INCRIMINATION, OR FROM STATEMENTS WHICH MAY BE USED FOR OBTAINING A CONVICTION.

STATEMENT OF THE CASE

IN ADDITION, STATEMENTS OBTAINED BY LAW ENFORCEMENT IN THE COURSE OF CUSTODIAL INTERROGATIONS ARE NOT ADMISSIBLE UNLESS THE SUSPECT WAS GIVEN HIS OR HER MIRANDA RIGHTS. (MIRANDA V. ARIZONA (1966) 384 U.S. 436). THE PROSECUTION HAS TO PROVE BY A PREPONDERANCE OF EVIDENCE THAT THE DEFENDANT KNOWINGLY AND VOLUNTARILY WAIVED HIS OR HER MIRANDA RIGHTS. (PEOPLE V. WHITSON (1998) 17 CAL. 4TH 229, 248; SEE: COLORADO V. CONNELLY, (1986) 479 U.S. 157; SEE: (PEOPLE V. SIMS, (1993) 5 CAL. 4TH 405, 440.) IN DETERMINING WHETHER A DEFENDANT WAIVED HIS RIGHTS THE COURT MUST CONSIDER "THE TOTALITY OF THE CIRCUMSTANCES SURROUNDING THE INTERROGATION." SEE: (FARE V. MICHAEL C., (1979) 442 U.S. 707, 724, 725.)

IN MORAN V. BURBINE, (1986) 475 U.S. 412, THE COURT IDENTIFIED TWO DISTINCT COMPONENTS OF THE INQUIRY:

FIRST, THE RELINQUISHMENT OF THE RIGHT MUST HAVE BEEN VOLUNTARY IN THE SENSE THAT IT WAS THE PRODUCT OF A FREE AND DELIBERATE CHOICE RATHER THAN INTIMIDATION, COERCION, OR DECEPTION. SECOND, THE WAIVER MUST HAVE BEEN WITH A FULL AWARENESS OF BOTH THE NATURE OF THE RIGHT BEING ABANDONED AND THE CONSEQUENCES OF THE DECISION TO ABANDON IT. ONLY IF THE "TOTALITY OF THE CIRCUMSTANCES SURROUNDING THE INTERROGATION" REVEALS BOTH AN UNCOERCED CHOICE AND THE REQUISITE LEVEL OF COMPREHENSION MAY A COURT PROPERLY CONCLUDE THAT THE MIRANDA RIGHTS HAVE BEEN WAIVED. [CITATIONS] ONCE IT IS DETERMINED THAT A SUSPECT'S DECISION NOT TO RELY ON HIS RIGHTS WAS UNCOERCED, THAT HE AT ALL TIMES KNEW HE COULD STAND MUTE AND REQUEST A LAWYER, AND THAT HE WAS AWARE OF THE STATE'S INTENTION TO USE HIS STATEMENTS TO SECURE A CONVICTION, THE ANALYSIS IS COMPLETE AND THE WAIVER IS VALID AS A MATTER OF LAW. (475 U.S. AT PP. 421, 422, 423, 118)

STATEMENT OF THE CASE

FN. OMITTED.) AS THERE IS A GENERAL PRESUMPTION AGAINST WAIVERS, THE PROSECUTOR BEARS THE BURDEN OF PROVING BY A PREPONDERANCE OF THE EVIDENCE THAT A DEFENDANT KNOWINGLY AND INTELLIGENTLY WAIVED HIS MIRANDA RIGHTS. (NORTH CAROLINA V. BUTLER, (1966) 441 U.S. 369, 373.) "THE GOVERNMENT'S BURDEN TO MAKE SUCH A SHOWING IS GREAT, AND THE COURT WILL INDULGE EVERY REASONABLE PRESUMPTION AGAINST WAIVER OF FUNDAMENTAL CONSTITUTIONAL RIGHTS." (UNITED STATES V. GARIBAY, SUPRA, AT p. 536, CITING: JOHNSON V. ZERBST, (1938) 304 U.S. 458, 464.)

REASONS FOR GRANTING THE PETITION

IN COMPLIANCE WITH THE UNITED STATES SUPREME COURT, RULES OF COURT, RULE 10. CONSIDERATIONS GOVERNING REVIEW ON CERTIORARI.

IN PERTINENT PART, STATE -

(c) A STATE COURT, OR A UNITED STATES COURT OF APPEAL, HAS DECIDED AN IMPORTANT QUESTION OF FEDERAL LAW, THAT HAS NOT BEEN, BUT SHOULD BE SETTLED BY THIS COURT, OR HAS DECIDED AN IMPORTANT FEDERAL QUESTION IN A WAY THAT CONFLICTS WITH RELEVANT DECISIONS OF THIS COURT.

THEREFORE,

THIS COURT SHOULD RESOLVE THE CONFLICT BETWEEN A STATE COURT, OR A UNITED STATES COURT OF APPEAL COURT, AND THE SUPREME COURT OF THE UNITED STATES, TO CLARIFY THE IMPORTANT QUESTION OF FEDERAL LAW.

WAS THERE A VIOLATION OF THE (5) FIFTH AMENDMENT TO THE UNITED STATES CONSTITUTION. (MIRANDA RIGHTS VIOLATION)

FURTHERMORE, IS THE MIRANDA RIGHTS VIOLATION TRUE, AND IF SO, SOMETHING SHOULD BE DONE TO RESOLVE THE CONFLICT BETWEEN THE COURTS.

REASONS FOR GRANTING THE PETITION

IN THE PRESENT CASE, THE POLICE OBTAINED STATEMENTS FROM MR. TAYLOR DURING A CUSTODIAL INTERROGATION IN WHICH THERE WAS NO PROPER WAIVER OF HIS MIRANDA RIGHTS. OFFICER CUSIMANO DETAINED MR. TAYLOR FOLLOWING A DISPATCH REGARDING A SUSPECT BRANDISHING A PAIR OF SCISSORS. UPON DETAINING MR. TAYLOR, OFFICER CUSIMANO PAT SEARCHED MR. TAYLOR WHICH DID NOT REVEAL ANYTHING. OFFICER CUSIMANO THEN INTERROGATED MR. TAYLOR REGARDING THE LOCATION OF THE SCISSORS. MR. TAYLOR WAS NEVER ADVISED OF HIS MIRANDA RIGHTS AND WAS NOT FREE TO LEAVE. DURING THE COURSE OF THIS CUSTODIAL INTERROGATION, MR. TAYLOR INDICATED THAT THE SCISSORS WERE INSIDE OF HIS BOOK BAG. OFFICER CUSIMANO THEN SEARCHED MR. TAYLOR'S BOOK BAG, AND LOCATED A PAIR OF SCISSORS. MR. TAYLOR WAS THEN PLACED UNDER ARREST.

BECAUSE THE STATEMENT WAS OBTAINED AFTER A MIRANDA VIOLATION, IT SHOULD BE SUPPRESSED. WHEN A STATEMENT IS SUPPRESSED ON DUE PROCESS GROUNDS, THE FRUITS OF THAT CONFESSION ARE ALSO TO BE SUPPRESSED. THEREFORE, THE SCISSORS FOUND IN MR. TAYLOR'S BOOK BAG SHOULD ALSO BE SUPPRESSED.

FURTHERMORE, DURING THE POLICE INTERROGATION MR. TAYLOR WAS AGAIN NEVER ADVISED THAT HE HAS A RIGHT TO HAVE AN ATTORNEY PRESENT BEFORE OR DURING INTERROGATION TO PROTECT HIS RIGHTS AGAINST SELF-INCRIMINATION, OR FROM STATEMENTS WHICH MAY BE USED FOR OBTAINING A CONVICTION.

REASONS FOR GRANTING THE PETITION

HORE, IN THE PRESENT CASE STATEMENTS WERE OBTAINED BY LAW ENFORCEMENT IN THE COURSE OF CUSTODIAL INTERROGATION WHICH ARE NOT ADMISSIBLE UNLESS THE SUSPECT WAS GIVEN HIS OR HER MIRANDA RIGHTS. (MIRANDA V. ARIZONA, (1966) 384 U.S., 436). THE PROSECUTION HAS TO PROVE BY A PREPONDERANCE OF EVIDENCE THAT THE DEFENDANT KNOWINGLY AND VOLUNTARILY WAIVED HIS OR HER MIRANDA RIGHTS. (PEOPLE V. WHITSON, (1998) 17 CAL. 4TH 229, 248; SEE: COLORADO V. CONNELLY, (1986) 479 U.S., 157; SEE: (PEOPLE V. SIMIS, (1993) 5 CAL. 4TH 405, 440). IN DETERMINING WHETHER A DEFENDANT WAIVED HIS RIGHTS THE COURT MUST CONSIDER "THE TOTALITY OF THE CIRCUMSTANCES SURROUNDING THE INTERROGATION. SEE: (FARE V. MICHAEL C., (1979) 442 U.S. 707, 724, 725).

IN MORAN V. BURBINE, (1986) 475 U.S. 412, THE COURT IDENTIFIED TWO DISTINCT COMPONENTS OF THE INQUIRY:

FIRST, THE RELINQUISHMENT OF THE RIGHT MUST HAVE BEEN VOLUNTARY IN THE SENSE THAT IT WAS THE PRODUCT OF A FREE AND DELIBERATE CHOICE RATHER THAN INTIMIDATION, COERCION, OR DECEPTION. SECOND, THE WAIVER MUST HAVE BEEN WITH A FULL AWARENESS OF BOTH THE NATURE OF THE RIGHT BEING ABANDONED AND THE CONSEQUENCES OF THE DECISION TO ABANDON IT.

ONLY IF THE TOTALITY OF THE CIRCUMSTANCES SURROUNDING THE INTERROGATION REVEALS BOTH AN UNCOERCED CHOICE, AND THE REQUISITE LEVEL OF COMPREHENSION, MAY A COURT PROPERLY CONCLUDE

REASONS FOR GRANTING THE PETITION

that the miranda rights have been properly waived. [citations]

ONCE IT IS DETERMINED THAT A SUSPECT'S DECISION NOT TO RELY ON HIS RIGHTS WAS UNCOERCED, THAT HE AT ALL TIMES KNEW HE COULD STAND MUTE AND REQUEST A LAWYER, AND THAT HE WAS AWARE OF THE STATES INTENTION TO USE HIS STATEMENTS TO SECURE A CONVICTION, THE ANALYSIS IS COMPLETE AND THE WAIVER IS VALID AS A MATTER OF LAW. (475 U.S. AT PP. 421, 422, 423, FN. OMITTED.)

AS THERE IS A GENERAL PRESUMPTION AGAINST WAIVERS, THE PROSECUTION BEARS THE BURDEN OF PROVING BY A PREPONDERANCE OF THE EVIDENCE THAT A DEFENDANT KNOWINGLY AND INTELLIGENTLY WAIVED HIS MIRANDA RIGHTS. (NORTH CAROLINA V. BUTLER, (1966) 441 U.S. 369, 373.) "THE GOVERNMENT'S BURDEN TO MAKE SUCH A SHOWING IS GREAT, AND THE COURT WILL INDULGE EVERY REASONABLE PRESUMPTION AGAINST WAIVER OF FUNDAMENTAL CONSTITUTIONAL RIGHTS." (UNITED STATES V. GARIBAY, SUPRA, AT P. 536., SEE: (JOHNSON V. ZERBST, (1938) 304 U.S. 458, 464.)

FINALLY, WITHOUT THE PRIVILEGES WHICH ARE GUARANTEED UNDER THE UNITED STATES CONSTITUTION, THAT ARE FORMALLY ASSURED, IT WOULD CLEARLY PREJUDICE THE PETITIONER'S DEFENSE, AND DEPRIVES THE PETITIONER OF A FAIR ENTITLEMENT OF HIS RIGHTS. SEE: [citations] THE 5TH AMENDMENT, TO THE UNITED STATES CONSTITUTION. (MIRANDA RIGHTS VIOLATION)

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Walter J. [Signature]

Date: MAY 27, 2023