

NO. 22-7742

IN THE
SUPREME COURT OF THE UNITED STATES

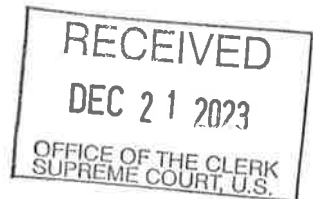
KENT TAYLOR,

PETITIONER,

VS.

STATE OF CALIFORNIA,

RESPONDENT.



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

PETITION FOR REHEARING ON
THE MERITS

KENT TAYLOR, P.O. BOX 61165, PALO ALTO,
CALIFORNIA, 94306. 1(415) 573-6636
KENT TAYLOR 59.ET @ GMAIL.COM

PETITIONER, KENT TAYLOR, HAS PETITIONED THIS COURT TO GRANT CERTIORARI TO CONSIDER THE UNCONSTITUTIONALITY AND UNLAWFULNESS OF THE SEARCH OF THE PETITIONER'S BOOK BAG WHICH WAS NOT IN COMPLIANCE UNDER THE FIFTH AMENDMENT TO THE UNITED STATES CONSTITUTION, A MIRANDA VIOLATION.

IN HIS PETITION FOR WRIT OF CERTIORARI, THE PETITIONER EMPHASIZES THAT THIS COURT RECOGNIZE THE RELEVANCE IN THE CASE OF MAPP V. OHIO, (1961) 367 U.S. 643.

GIVEN THE IDENTITY OR THE IDENTICAL ISSUES BETWEEN THE CASE OF MAPP V. OHIO, AND THE INSTANT CASE OF TAYLOR V. CALIFORNIA, THIS COURT SHOULD HEAR KENT TAYLOR'S PETITION FOR REHEARING BASED ON THE DISPOSITION OF MAPP V. OHIO. THIS COURT SHOULD GRANT KENT TAYLOR'S PETITION FOR REHEARING ON THE MERITS, AND PARTICULARLY GIVE SPECIFIC CONSIDERATION TO THE FACT OF INSUFFICIENT EVIDENCE, IN THIS CASE, AND VACATE THE OLD ORDER DENYING CERTIORARI, AND ISSUE A NEW ORDER GRANTING KENT TAYLOR'S PETITION FOR WRIT OF CERTIORARI, AND THEN REMAND FOR FURTHER PROCEEDINGS IN LIGHT OF THE CASE OF MAPP V. OHIO.

THE PETITION FOR REHEARING ON THE MERITS WILL ONLY BE GRANTED BY A MAJORITY OF THE COURT. SEE: SUP. CT. RULE 44. HOWEVER, THE COURT WILL AGREE TO A REHEARING WHEN THERE IS A ERROR OF FACT OR LAW, OR WHEN AN IMPORTANT ARGUMENT WAS NOT INCLUDED IN THE PETITION FOR WRIT OF CERTIORARI, BEFORE THE COURT MADE ITS DECISION.

A DENIAL OF A PETITION FOR A WRIT OF CERTIORARI IS NOT A DECISION ON THE MERITS OF THE CASE. CITING: TEAGUE V. LANE,

(1989) 489 U.S. 288, 296, 109 SUP. CT. 1060, 103 L. ED. 2d 334.

HERE, IN THE INSTANT CASE, THE TRIAL COURT'S MISTAKE IS A MAJOR ERROR OF FACT. FIRST, THE OFFICER'S BODY CAMERA WILL CONFIRM THAT THE SCISSORS WERE NOT RECOVERED FROM THE PAT-DOWN SEARCH OF THE PETITIONER'S PERSON. IN ADDITION, LAW ENFORCEMENT HAS NO PROOF THAT THE SCISSORS WERE RECOVERED FROM THE PETITIONER'S PERSON. SECOND, THE TRIAL COURT ERROR WHEN IT FAILED TO DISMISS THE CASE ON THE GROUNDS OF INSUFFICIENT EVIDENCE. WHEN THERE ARE NO OTHER WITNESSES TO CORROBORATE THE SOLE WITNESS TESTIMONY THE PETITIONER BRANDISHED SCISSORS IN A THREATENING MANNER TOWARD THE SOLE WITNESS.

CITING: HOPFMAN V. CONNOLLY, (1985) 471 U.S. 459, 460-461, 105 SUP. CT. 2106, 85 L. ED. 2d 469. THIRD, THE TRIAL COURT ERROR. ON THE GROUNDS, IT MISAPPLIED THE LAW BASED ON THE EVIDENCE AND FACTS IN THIS CASE, AND THE ERROR HAD A LEGAL IMPACT ON THE TRIAL COURT'S DECISION. CITING: HUGHES TOOL CO. V. TRANS WORLD AIRLINES, INC., (1973) 409 U.S. 363, 365 N.1, 93 SUP. CT. 647, 34 L. ED. 2d 577.

RESPECTFULLY SUBMITTED,


KENT TAYLOR, P.O. BOX 61165,
PHOENIX, CALIFORNIA, 94306.
(415) 573-6636

KENT TAYLOR 59.ET@gmail.com

QUESTION[S] PRESENTED
SUPREME COURT RULE 14.1.

1. IS THE DENIAL OF THE PETITION FOR A WRIT OF CERTIORARI A DECISION ON THE MERITS OF THE CASE.
2. DOES THE EXCLUSIONARY RULE PREVENT THE GOVERNMENT FROM USING THE SEIZED EVIDENCE.
3. IS THIS A CASE OF INSUFFICIENT EVIDENCE.
4. IF A STATE VOLUNTARILY REMOVES AN ACTION TO FEDERAL COURT, IS IT ESTOPPED TO ASSERT ITS ELEVENTH AMENDMENT IMMUNITY IN THE FEDERAL COURT PROCEEDINGS IN THAT CASE.

IN CONCLUSION

ARGUMENT ON THE MERITS OF THE CASE

PURSUANT TO CALIFORNIA PENAL CODE, SECTION 417, BRANDISHING A WEAPON.

(A)(1) EVERY PERSON WHO, EXCEPT IN SELF-DEFENSE, IN THE PRESENCE OF ANY OTHER PERSON, DRAWS OR EXHIBITS ANY DEADLY WEAPON WHATSOEVER, OTHER THAN A FIREARM, IN A ROUE, ANGRY, OR THREATENING MANNER, OR WHO IN ANY MANNER, UNLAWFULLY USES A DEADLY WEAPON OTHER THAN A FIREARM IN ANY FIGHT OR QUARREL IS GUILTY OF A MISDEMEANOR, PUNISHABLE BY IMPRISONMENT IN A COUNTY JAIL FOR NOT LESS THAN 30 DAYS. CITING: PEOPLE V. KIRK, (CAL. APP. DIST. SUPER. CT. 1986), 192 CAL. APP. 3D SUPP. 15, 238 CAL. RPTR. 42, 1986 CAL. APP. LEXIS 2433.

HERE, IN THE INSTANT CASE THE EVIDENCE IS INSUFFICIENT AS FOLLOWS; 1.) THE EVIDENCE FAILS TO MEET THE PRE-REQUISITE OF ADMISSIBILITY AND LACKS A PROPER FOUNDATION.

FIRST, THE ELEMENTS OF BRANDISHING ARE NOT PRESENT.

UNDER THE UNITED STATES CONSTITUTION AND CALIFORNIA LAW, THE PROSECUTION MUST PROVE EACH ELEMENT OF A CHARGED OFFENSE BEYOND A REASONABLE DOUBT. CITING; VICTOR V. NEBRASKA, 511 U.S. 1, 5, 114 S. CT. 1239, 127 L. ED. 2D 583 (1994); PEOPLE V. COLE, 33 CAL. 4TH 1158, 1208, 17 CAL. RPTR. 3D 532, 95 P. 3D 811 (2004). ("THE PROSECUTION HAS THE BURDEN OF PROVING BEYOND A REASONABLE DOUBT EACH ELEMENT OF THE CHARGED OFFENSE").

EVERY ELEMENT MUST BE PROVED

THE STANDARD REASONABLE DOUBT INSTRUCTION (CALCRIM 220) NO LONGER CONTAINS THE ADMONITION THAT THE PRESUMPTION OF INNOCENCE RESULTS IN PLACING ON THE PROSECUTION THE BURDEN TO PROVE EACH ELEMENT OF THE CRIME BEYOND A REASONABLE DOUBT. IN GIVING CALCRIM 220, THE TRIAL COURT INSTRUCTS THE JURY: "WHENEVER I TELL YOU THE PEOPLE MUST PROVE SOMETHING, I MEAN THEY MUST PROVE IT BEYOND A REASONABLE DOUBT" AND THE COURT WILL ENUMERATED EACH OF THE ELEMENTS OF THE CHARGED CRIME AND SPECIAL ALLEGATIONS AND STATE THAT THE PEOPLE ARE OBLIGATED TO PROVE EACH OF THOSE ELEMENTS IN ORDER FOR THE DEFENDANT TO BE FOUND GUILTY. OUR APPELLATE COURTS HAVE HELD THAT THE PATTERN INSTRUCTIONS, TAKEN AS A WHOLE, ADEQUATELY INFORM THE JURY THAT THE PROSECUTION IS REQUIRED TO PROVE EACH ELEMENT OF THE CHARGED CRIME BEYOND A REASONABLE DOUBT. CITING; PEOPLE V. RAMOS, 163 CAL. APP. 4TH 1082, 1088-1089, 78 CAL. RPT. 3d 186 (1ST DIST. 2008); PEOPLE V. WYATT, 165 CAL. APP. 4TH 1592, 1601, 81 CAL. RPT. 3d 911 (3d DIST. 2008).

THE PETITIONER FURTHER ALLEGES, THE SOLE EYE WITNESS STATED IN HER OWN WORDS THAT THE DEFENDANT DID NOT SAY ANYTHING, NOT ONE WORD. SECOND, THERE ARE NO OTHER WITNESSES TO CORROBORATE HER STATEMENT THAT THE DEFENDANT DREW OR EXHIBITED A DEADLY WEAPON IN A RUDE, ANGRY, OR THREATENING MANNER. THIRD, THERE WAS NO FIGHT OR

EVERY ELEMENT MUST BE PROVED

QUARREL. THEREFORE, WHEN EVIDENCE LACKS FOUNDATION ONE OF THE PRE-REQUISITES ARE MISSING. THE PRE-REQUISITES OF ADMISSIBLE EVIDENCE ARE; 1.) ONLY RELEVANT EVIDENCE IS ADMISSIBLE E.C. 210, 2.) ONLY EVIDENCE OFFERED TO PROVE A MATERIAL FACT THAT IS AT ISSUE IN THE CASE, CAN BE MATERIAL. CAL. E.C. 140. 3.) ONLY EVIDENCE THAT IS RELIABLE, OR ONLY EVIDENCE THAT MEETS THE TRADITIONAL REQUIREMENTS OF RELIABILITY CAN BE COMPETENT EVIDENCE. CALIFORNIA EVIDENCE CODE, SECTION 700. THIS EVIDENCE CLEARLY FAILS SHORT UNDER THE RULES OF EVIDENCE, AND THE COURT MUST OR SHALL CONSIDER THE EVIDENCE INSUFFICIENT.

ON THE GROUNDS, THIS EVIDENCE LACKS A PROPER FOUNDATION AND WHEN EVIDENCE LACKS FOUNDATION IT IS NOT RELIABLE, WHEN THE EVIDENCE IS NOT RELIABLE, THE EVIDENCE IS INSUFFICIENT.

THE PETITIONER, RESPECTFULLY REQUEST THAT THIS COURT CONSIDER THE EVIDENCE SHORT AND FAILS TO MEET THE PRE-REQUISITE OF ADMISSIBLE EVIDENCE, THEREFORE IT IS CLEARLY INSUFFICIENT.

IN CONCLUSION

DECEMBER 01, 2023,


PETITIONER, IN PRO-PER

CERTIFICATION OF COUNSEL
RULE 44.6

THAT THE GROUNDS SHALL BE LIMITED TO INTERVENING CIRCUMSTANCES OF A SUBSTANTIAL OR CONTROLLING EFFECT OR TO OTHER SUBSTANTIAL GROUNDS NOT PREVIOUSLY PRESENTED.

FURTHER, THE PETITION FOR REHEARING ON THE MERITS OF THE CASE IS PRESENTED IN GOOD FAITH AND NOT FOR ANY DELAY.

DECEMBER 01, 2023,

Walt Taylor
PETITIONER, IN PRO-PR