

III

ORIGINAL

No. _____

23-5044

IN THE

SUPREME COURT OF THE UNITED STATES

Supreme Court, U.S.
FILED

JUN - 1 2023

OFFICE OF THE CLERK

Marvin James Belser — PETITIONER
(Your Name)

Wayne Co. Cir. Court, "et al"
Michigan Supreme Court — RESPONDENT(S)
vs.

ON PETITION FOR A WRIT OF CERTIORARI TO

Michigan Supreme Court; Wayne Co. Cir. Court of Appeals
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)
(Criminal Division)

PETITION FOR WRIT OF CERTIORARI

Marvin J. Belser Jr. #352904
(Your Name)

Woodland Center Corr. Facility
(W.C.C.F.) 9036 E. M-36
(Address)

Whitmore Lake, Mi 48189-814736
(City, State, Zip Code)

N/A
(Phone Number)

QUESTION(S) PRESENTED

- ① Would it be a great mistake to confuse this un-questioned duty to obey and respect the law with an imagined obligation to subsume entirely one's own views of Constitutional imperatives to the views of the majority;?
- ② I was not adequately warned of my miranda rights; nor was I appointed an attorney before, during or after I was arrested; I was and am indigent; I'm unable to pay for assistance; will I have to pay now? or be denied because I'm not able to pay for an attorney? again.
- ③ the United States Supreme Court is the highest court in the land; why would the lower courts ^{not} follow the decision that has already been put into law and not be in conflict with this court?
- ④ At the outset; It is well to note exactly what is required by the Courts new Constitutional Code of rules for confessions, the foremost requirement; upon which later admissibility of a confession depends; is that a fourfold warning be given to a person in custody before he/she is questioned?
- ⑤ In his Miranda dissent, Justice White asserted that there was "every reason to believe that a good many criminals defendants who otherwise would have been convicted on what this Court has previously thought to be the most satisfactory kind of evidence will now, under this new version of the Fifth Amendment, either not be tried at all or will be acquitted if the States evidence, minus the confession is put to the test of litigation" 384 U.S. at 542, 86 S.Ct. at 1663, 16 L.Ed. 2d at 763. Is Mirandas impact on law enforcement relevant to the question of whether Miranda is a proper interpretation of the Fifth Amendment privilege?
- ⑥ Why do so many suspects waive their Miranda rights?
- ⑦ Do the police officers have to give the defendant the Miranda warnings if the defendant tell them that he ^{her} knows his rights and wants to talk?

LIST OF PARTIES

- [✓] All parties appear in the caption of the case on the cover page. *and in appendix A-2 for mailing; see 28 U.S.C. § 2403(b) and 28 U.S.C. § 451 and Rule 14.1(e)(v).*
- [] 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

Berghemen V. McCarthy, 468 U.S. 420 (1984), *Miranda V. Ariz* 384 U.S. 436; 86 S. Ct. 1601; 1602; 16 L. Ed. 2d 694, 694; 1966 U.S., *Bram V. United States*, 168 U.S. 532, 542 (1897) *New York V. Quarles* U.S.C. 467 U.S. 649, 104 S. Ct. 2626, 81 L. Ed. 2d 550 (1984) *United States V. Street*, 472 F. 3d 1298 (11th Cir. 2006); *California V. Prysock*, U.S.S.C. 453 U.S. 355 (1981); (98 Ariz. 18. 401 P2d 721) (21 app div 2d 752, 252 NYS 2d 857, 207 NE 2d 527, remittitur amended. 16 NY 2d 614. 261 NYS 2d 65, 209 NE 2d 110.) (Court of Appeals for the 9th Circuit (342 F2d 684.) (62 Cal 2d 571. 43 Cal Rptr 201. 400 P2d 97.) *Escobedo V. Illinois*, 378 U.S. 478/1610 (1964) (382 U.S. 924, 925, 937) (*United States V. Murphy*. 222 F. 2d 698) (C.A. 2d Cir. 1955) *People V. Bonino*. 1 N.Y. 2d 752. 135 NE 2d 51 (1956); *People V. Donovan* 13 N.Y. 2d 148. 193 N.E. 2d 628. 243 N.Y.S. 2d 841 (1963) all of the foregoing cases were over turned by the United States Supreme Court on writ of certiorari; some cases the names are not listed only the case numbers and dates; also see the constitutional Basis of *Miranda V. Arizona*, United States Supreme Court (384 U.S. 436, 86 S. Ct. 1602, 16 L. Ed. 2d 694) (1966)

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	3 pages; ² notarized letter and proof of service; and following list of who will receive a copy of this prospective indigent petitioners writs of Certiorari;
APPENDIX B	Table of Authorities Cited, Cases, statutes and rules; others; 1 page
APPENDIX C	3rd Judicial Circuit; Wayne Co. (Criminal Division) dated 2-28-2022, 1 Page, motion to waive fees is granted by the Court; denied appeal motion, see appendix C
APPENDIX D	State of Michigan Court of appeals, denied date 11-13-20 22 22, 1 Page, motion to waive fees is granted by the Court; denied appeal motion; see appendix D
APPENDIX E	See Michigan Supreme Court denied date 4-4-2023, 2 Pages; motion to waive fees is granted by the Court; order dated 5-30-2023; received on 6-2-2023 (M.S.C.) Considered and denied reconsideration on newly discovered evidence of Miranda rights and appointment of attorney.
APPENDIX F	(M.S.C.) Clerk letter, dated 12-12-2022; 1 of 2 pages response after filing (M.D.D.C.) Legal writers program; (subject) follow up, dated 4-14-2023, 2 of 2 pages response after (M.S.C.) denied my application to appeal.

TABLE OF AUTHORITIES CITED

^{all} CASES listed on page V	PAGE NUMBER
<i>Berkeman V. Mc Carthy</i> , 468 U.S. 420 (1984)	
<i>Miranda V. Arizona</i> , 384 U.S. 436; 86 S. Ct 1602, 16 L. Ed. 2d 694 (1966), pages 3 (#5) (4) (5 D-E)	
<i>Bran V. United States</i> , 168 U.S. 532, 542 (1897)	
<i>New York V. Quarles U.N.S.C.</i> 467 U.S. 649, 104 S. Ct 2626, 81 L. Ed. 2d 550 (1984)	
<i>United States V. Street</i> , 472 F.3d 1298 (11 th Cir. 2006)	
<i>California V. Prysock</i> , U.S.S.C. 453 U.S. 355, (1981)	
<i>Dickerson V. United States</i> , 530 U.S. 428 (2000) page 3 (#1)	
<i>Escobedo V. Illinois</i> , 378 U.S. 478, 1610 (1964) page V	
<i>United States V. Murphy</i> , 222 F.2d 698, C.A. 2d Cir. (1955) page V	
<i>People V. Bonino</i> , 1 N.Y.2d 752, 135 N.E. 2d 51 (1956) page V	
<i>People V. Donovan</i> , 13 N.Y.2d 148, 193 N.E.2d 628, 243 N.Y.S. 2d 841 (1963) page V	

STATUTES AND RULES

(The Constitutional Basis of <i>Miranda V. Arizona</i> , United States Supreme Court) page 3 (#5) and 5 (1) (4) (5)
(384 U.S. 436, 86 S. Ct. 1602, 16 L. Ed. 2d 694 (1966))
Constitutional history, Judicial development of Constitutional principles, page 3 (#3)
<i>Miranda</i> dissent by Justice White; "384 U.S. at 542, 86 S. Ct at 1663, 16 L. Ed. 2d at 736. page IV
28 U.S.C. § 1746 page II (#5) and page IV and appendix A, First page
Miscarriage of justice; page 5 (E)
Due process clause of the Fourteenth Amendment; page 3 (#2)
Courts given ample recognition to society's interest page 3 (#4)

OTHER

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 D to the petition and is

- ☒ reported at 2023 Mich. Lexis 554, 986 N.W.2d 905, 2023 WL 2777324; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the United States ^{Circuit}~~district~~ court appears at Appendix C to the petition and is

- ☒ reported at 2023 Mich. Lexis 554, 986 N.W.2d 905, 2023 WL 2777324; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

☒ For cases from **state courts:** Wayne County Circuit Court; (Criminal Division)

The opinion of the highest state court to review the merits appears at Appendix C to the petition and is dated 2-28-2022 - 1 Page

- ☒ reported at 2023 Mich. Lexis 554, 986 N.W.2d 905, 2023 WL 2777324; or,
☒ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the no relief established under MCR 6.508(D) court appears at Appendix C to the petition and is

- ☒ reported at 2023 Mich. Lexis 554, 986 N.W.2d 905, 2023 WL 2777324; or,
☒ has been designated for publication but is not yet reported; or,
☐ is unpublished.

JURISDICTION

[✓] For cases from ~~federal~~ courts: *Michigan Court of appeals*

The date on which the United States Court of Appeals decided my case was 11-23-2012; appendix D, 1 Page

☒ 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: ~~No response~~ 11-23-2012, 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 Appendix E page 2 (date) on 5-13-2013 (date) in Application No. E-2 Appendix.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

[✓] For cases from state courts: *Michigan Supreme Court*

The date on which the highest state court decided my case was 4-4-2013.
A copy of that decision appears at Appendix E-2 Pages.

[✓] A timely petition for rehearing was thereafter denied on the following date: 4-14-2013, and a copy of the order denying rehearing appears at Appendix Appendix. No response E, page 2, 1 page, date 5-30-2013
reconsideration considered and denied by (M.S.C.) order warranted. MCR 7.311(G)

[✓] An extension of time to file the petition for a writ of certiorari was granted to and including Appendix E, page 2 (date) on 6-13-2013 (date) in Application No. E, 2 Appendix.

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

- ① The debate over *Miranda v. Arizona* has become far more muted in light of the Court's holding in *Dickerson v. United States*, 530 U.S. 428 (2000); the Court would not overrule *Miranda*, because the Supreme Court's landmark opinion was indeed constitutionally grounded in the Fifth Amendment privilege against self-incrimination.
- ② It is most fitting to begin an inquiry into the constitutional precedents by surveying the limits on confessions the Court has ~~and~~ evolved under the due process clause of the Fourteenth Amendment; this is so because these cases show that there exists a workable and effective means of dealing with confessions in a judicial manner; because the cases are the baseline from which the Court now departs and so serve to measure the actual as opposed to the professed distance it travels; and because examination of them helps reveal how the Court has coasted into its present position.
- ③ There are several relevant lessons to be drawn from this constitutional history; the first is that with over 25 years of precedent the Court has developed an elaborate, sophisticated and sensitive ~~approach~~ approach to admissibility of confessions; it is "judicial" in its treatment of one case at a time, flexible in its ability to respond to the endless mutation of facts presented; and even more familiar to the lower courts, of course, strict certainty is not obtained in this developing process, but this is often so with constitutional principles, and disagreement is usually confined to that borderland of close cases where it matters least.
- ④ The second point is that in practice and from time to time in principle, the Court has given ample recognition to society's interest in suspect questioning as an instrument of law enforcement. Cases countenancing quite significant pressures can be cited without difficulty and the lower courts may often have been more yet tolerant, of course the limitations imposed today were rejected by necessary implication in case after case; the right to warnings having been explicitly rebuffed in this Court many years ago.
- ⑤ (A) The Constitutional Basis, *Miranda v. Arizona*, United States Supreme Court. (384 U.S. 436, 86 S.Ct. 1602, 16 L. Ed. 2d 694) (1966)

STATEMENT OF THE CASE

I was denied my Miranda Rights and the reading thereof during, before and after I was placed under arrest; nor was I given any documents to sign to verify that I was mirandized; nor was I appointed an attorney by the lower courts, appeal courts or Michigan Supreme Court during none of my appeals in the process; the ruling was established by the U.S. Supreme Court; see *Miranda v. Arizona*, U.S.S.C. 384 U.S. 436 (1966). The Court was informed of the issue and would not respond to the notification; see following statement to the courts dated 4-14-2023; and proof of service under notary and 28 U.S.C. § 1746; the courts at state level have choose to ignore federal law; the reply was not late and in full compliance with time under state MCR 7.305(D) and MCR 7.305(E) and federal 28 U.S.C. § 2101(C) law; also this measure is being forward to the office of the United Supreme Court because the state court ignored my reply to there dismissal of my Criminal Case number in lower Court 05-012675-01-FC appeals court #362188; and Michigan Supreme Court case #165123; I informed the court in a timely manner of the oversight of the fact that I was denied the reading and even the signing of my constitutional right to be mirandized before, during and after I was arrested; also the appointment of an attorney during the appeal process was denied by all three courts; the issues is verified by court records; I understand that the primary concern of the U.S. Supreme Court is to decide cases presenting issues of importance beyond the particular facts and parties involved; and the function of the Supreme Court is to resolve disagreements among lower courts about specific legal questions, But it seems as if the courts over this issue have collectively decided not to respond because of the lenght of time that have passed since I informed the courts of the oversight issue; I pray that I'm in the 1% of the cases heard by this court; It is a matter of judicial discretion to decide this case present issues of importance beyond the particular facts and parties involved; after the application for leave to appeal was denied on 4-4-2023 I filed a timely reply, within the 21 day deadline on 4-14-2023 with time to spare; now the courts refuse to respond; on 6-1-2023 I received a letter from the Michigan supreme court; order dated 5-30-2023. denying me my constitutional right to be mirandized and have an attorney appointed because I am indigent and can not pay for the services; I am requesting as required in Rule 11 an immediate determination in this court see 28 U.S.C. § 2101(e)

REASONS FOR GRANTING THE PETITION

Part III. Jurisdiction on writ of Certiorari

Rule 10. Considerations Governing Review on Certiorari

- (a) a United States court of appeal has entered a decision in conflict with the decision of another United States court of appeals on the same important matter; has decided an important federal question in a way that conflicts with a decision by a state court of last resort; or has so far departed from the accepted and usual course of judicial proceedings; or sanctioned such a departure by a lower court, as to call for an exercise of this Court's supervisory power.
- (c) a state court or a United States court of appeals 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.
- (D) I am subject to the same rights as Ernesto Miranda in 1963 a Mexican American in Phoenix Arizona who was denied his rights to be warned before being questioned and denied a lawyer during the ensuing two-hour interrogation at police headquarters; in which he confessed to the rape; a jury convicted Miranda after five hours of deliberations and the judge then sentenced him to two concurrent twenty- to thirty- year prison terms.
- (E) It will be a very serious miscarriage of justice if this court ^{did not} exercise its supervisory powers after the courts has decided an important federal question in a way that conflicts with relevant decisions of this Court; In the case of *Miranda V. Arizona*, United States Supreme Court 384 U.S. 436 (1966)

(F) All three courts and the prosecutors office ignored my rely to the ^{XIV} order of the Courts decision see reply dated 4-14-2023; and to this very day the Courts have not respond; the decision not to respond is erroneous and I pray that this court grant Certiorari.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Marvin J. Belser Sr. #352904

Date: 5-31-2023