No. _____

IN THE

SUPREME COURT OF THE UNITED STATES

SEMAJ WILLIAMS – PETITIONER

v.

UNITED STATES OF AMERICA – RESPONDENT

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals for the Sixth Circuit

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

I. Mr. Williams moved to suppress the evidence related to the controlled substances because he was unlawfully detained when there was no reasonable suspicion to justify the detention. Did the district court improperly deny suppression and did the appellate court improperly affirm the district court?

II. Mr. Williams moved to suppress the evidence related to the controlled substances because the officers carried out a prolonged detention beyond the time reasonably required to complete the mission of issuing a ticket for the traffic violations. Did the district court improperly deny suppression and did the appellate court improperly affirm the district court?

LIST OF PARTIES

All parties appear in the caption of the case on the cover page.

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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

The opinion of the United States Court of Appeals for the Sixth Circuit is unpublished.

JURISDICTION

The date on which the United States Court of Appeals for the Sixth Circuit decided Mr. Williams' case was August 14, 2023. No petition for rehearing was filed. The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Fourth Amendment of the United States Constitution.

STATEMENT OF THE CASE

Mr. Williams was charged with one count of conspiracy to distribute and possess with intent to distribute methamphetamine as well as one count of possession with intent to distribute methamphetamine. (Indictment, RE 1, Page ID # 1, 2.) Each count subjected him to up to life in prison. (Penalty Sheet, RE 05, Page ID # 8.)

Before Mr. Williams entered a guilty plea, there was a motion hearing regarding suppression of the contraband found in a car following a traffic stop. (Transcript, RE 81, Page ID # 318.) Mr. Williams argued that he was detained without reasonable suspicion, there were insufficient specific and articulable facts to justify the conclusion that the drugs found in the car were his, and that the stop was prolonged unreasonably. (Transcript, RE 81, Page ID # 401, 402, 403, 404, 405.) The court denied the motion. (Transcript, RE 81, Page ID # 437.)

During the evidentiary hearing, evidence was presented that on March 13, 2021, Mr. Williams was a passenger in a vehicle driven by Ms. Ellis. (Transcript, RE 81, Page ID # 323, 336, 364, 372.) The vehicle was parked in front of 935 Princeton in Kalamazoo, Michigan, when Officer Colin Morgan drove by close to 9:30 p.m. that evening. (Transcript, RE 81, Page ID # 324-325.) Due to previous and unrelated events, Officer Morgan believed that narcotics were being sold from that address. (Transcript, RE 81, Page ID # 324.) This, however, was unsubstantiated. (Transcript, RE 81, Page ID # 380-381.)

As he passed the vehicle, the officer claimed to have noticed the interior dome light in the car was on, which led him to believe that someone had recently gotten

into or out of the car. (Transcript, RE 81, Page ID # 325, 331.) Officer Morgan said that was when he "planned on watching the vehicle for an extended period of time," but as he passed the vehicle it pulled away from the curb and did not use a turn signal, which is a violation of the law. (Transcript, RE 81, Page ID # 326, 331, 332-333.) He claimed to have been watching the vehicle in his rearview and side view mirrors as it pulled away from the curb. (Transcript, RE 81, Page ID # 325-326, 332, 333.)

At this time, the officer turned around and caught up with the vehicle in order to get the license plate number. (Transcript, RE 81, Page ID # 326-327.) He ran the license plate number through the Law Enforcement Information Network (LEIN) and discovered that the vehicle was not insured. (Transcript, RE 81, Page ID # 327.) Due to the lack of insurance, the officer decided to conduct a traffic stop on the vehicle. (Transcript, RE 81, Page ID # 328, 334.) The officer testified that the car pulled over immediately and that it seemed to do so very abruptly. (Transcript, RE 81, Page ID # 335.) He alleged that this is not typical and that it appeared that the driver hit the brakes "very hard." (Transcript, RE 81, Page ID # 335.)

The officer shined his flashlight into the vehicle while speaking with the driver. (Transcript, RE 81, Page ID # 336, 340.) He saw four people in the vehicle and testified that he recognized Mr. Williams—who was seated in the back seat on the passenger side—as one of the passengers. (Transcript, RE 81, Page ID # 336-337.) The officer claimed to know Mr. Williams due to being called to the street Mr. Williams resided on for "fights, shots fired and disturbances." (Transcript, RE 81,

Page ID # 337.) But this was an unfair characterization of Mr. Williams since the officer then clarified that Mr. Williams was not a suspect in those crimes. (Transcript, RE 81, Page ID # 338.)

The prosecutor, however, was not as genuine and unfairly eluded that Mr. Williams *was* a person of interest whenever the police were called to the street he lived on. (Transcript, RE 81, Page ID # 415.) And when prompted by the prosecutor, the officer added that Mr. Williams was listed as a "priority offender" with the Kalamazoo Department of Public Safety. (Transcript, RE 81, Page ID # 338.) A priority offender is a person who is "committing the most crimes in the city specifically related to gun and gang violence." (Transcript, RE 81, Page ID # 338.)

Officer Morgan claimed that Mr. Williams seemed nervous during the traffic stop, avoided eye contact with the officer, and tried to "shield" his face. (Transcript, RE 81, Page ID # 338, 341-342.) The officer claimed that Mr. Williams had "rapid breathing" and was allegedly making "furtive movements" with his feet. (Transcript, RE 81, Page ID # 339.) But then the officer also said that he was focused on the hands of all of the people who were in the vehicle for safety purposes. (Transcript, RE 81, Page ID # 339-340.) At some point, another officer—Officer Whitaker—arrived on scene and the officers communicated on what they were seeing. (Transcript, RE 81, Page ID # 342-343.) Officer Whitaker claimed that she saw furtive movements from Mr. Williams, too. (Transcript, RE 81, Page ID # 343, 399-400.)

Officer Morgan ultimately returned to his vehicle to confirm Ms. Ellis' driving status, insurance information, and plate information. (Transcript, RE 81, Page ID

#344, 346.) He also checked to see if any of the occupants had outstanding warrants. (Transcript, RE 81, Page ID # 344.) It should be noted that the officer's body camera should automatically activate with the patrol vehicle lights but did not in this case. (Transcript, RE 81, Page ID # 345.) Curiously here, the body camera was not recording until Officer Morgan manually activated it when he returned to his vehicle for these checks—so the so-called "furtive movements" were not captured on video. (Transcript, RE 81, Page ID # 345.)

During the computer checks, Officer Morgan discovered that the driver had an expired temporary instructor's permit. (Transcript, RE 81, Page ID # 347.) This was an arrestable offense. (Transcript, RE 81, Page ID # 347.) It was also discovered that the driver had a warrant out for her arrest for a misdemeanor offense. (Transcript, RE 81, Page ID # 354-355.) It is worth noting here that despite having committed an arrestable offense and having a warrant out for her arrest—which was the alleged reason for the delay in the traffic stop—she was never arrested. (Transcript, RE 81, Page ID # 348-357, 367.) Instead, she was only issued a citation for the civil infraction of no proof of insurance, a warning for driving with no license, and received a verbal warning for failing to use a traffic signal. (Transcript, RE 81, Page ID # 369-370, 372-373.) At this time, the officer asked the driver to step out of the car for a "private conversation." (Transcript, RE 81, Page ID # 348.) However, this was not just done in reference to the expired permit and lack of insurance, but also to ask her about his "previous observations" regarding the vehicle's "contact" at 935 Princeton Avenue. (Transcript, RE 81, Page ID # 348-349.)

The information provided by the driver did not satisfy the officer, who seemed to believe that his preferred direction of travel was the only correct way to get from where Ms. Ellis said she left to the place she was headed. (Transcript, RE 81, Page ID # 349-350.) But there were multiple routes that could have been taken. (Transcript, RE 81, Page ID # 392.) The driver also denied making any stops, including at 935 Princeton. (Transcript, RE 81, Page ID # 351.) Upon further pushing by the officer, the driver stated that she had stopped at her father's house on the same street. (Transcript, RE 81, Page ID # 352.) But, according to the officer, this address was allegedly four or five blocks from where the officer had seen the car by the curb. (Transcript, RE 81, Page ID # 352.)

Officer Morgan also asked Ms. Ellis if she knew the names of her passengers. (Transcript, RE 81, Page ID # 353.) The officer testified that Ms. Ellis did not know their legal names and was only able to provide the "street names" of the passengers. (Transcript, RE 81, Page ID # 353, 391.) The officer painted this as unusual and claimed that the use of street names typically signals that that person is involved in gang activity. (Transcript, RE 81, Page ID # 353-354.) However, this does not account for other factors, such as that "street names" could actually be just family nicknames that were still used. (Transcript, RE 81, Page ID # 377.)

The officer also asked Ms. Ellis if there was anything illegal in the car, to which she responded, "There shouldn't be." (Transcript, RE 81, Page ID # 355.) Here, the officer seemed to think this was an odd answer and stated, "People who are driving their vehicle know 100 percent whether they have something illegal or not inside of

their vehicle. When somebody makes a statement like that, it means they genuinely don't know or there could be something illegal in the vehicle." (Transcript, RE 81, Page ID # 355-356.)

When the officer asked the driver why the dome light was on, the driver allegedly said that the back seat passenger had gotten out of the vehicle. (Transcript, RE 81, Page ID # 356.) The driver then recanted her story about stopping at her father's house when the officer relentlessly asked her about it. (Transcript, RE 81, Page ID # 357.) It was at this point that the officer made the decision to pull all of the passengers out of the vehicle in order to "further the narcotics investigation" that he claimed he had suspicion of. (Transcript, RE 81, Page ID # 357.)

Mr. Williams was the first passenger pulled out because the officer perceived him to be the "biggest threat." (Transcript, RE 81, Page ID # 358.) Mr. Williams was patted down to ensure he had no weapons on his person. (Transcript, RE 81, Page ID # 358.) Mr. Williams had his cell phone in his hand and appeared to be recording the interaction with the police. (Transcript, RE 81, Page ID # 359.)

Later, Officer Morgan also spoke to Paris Black, the other backseat passenger. (Transcript, RE 81, Page ID # 360.) Mr. Black agreed that the passengers were nervous but did not offer any guesses as to why. (Transcript, RE 81, Page ID # 360.) Of import here, Officer Morgan noted that Mr. Black exhibited the exact same behavior as Mr. Williams—nervousness, attempts to avoid eye contact, and furtive movements. (Transcript, RE 81, Page ID # 360, 405.) Of note, Mr. Black also had a bag in his lap that he was fidgeting with. (Transcript, RE 81, Page ID # 360-361.)

At this point, two additional officers arrived on scene. (Transcript, RE 81, Page ID # 362.) Officer Morgan stated that he had a "reasonable suspicion" that there was a narcotics violation being committed, so he decided to call for a canine to conduct a "free air" check on the vehicle. (Transcript, RE 81, Page ID # 362.) The officer's recording was purposefully muted at one point due to the officer having a "private discussion" with the dog handler by phone. (Transcript, RE 81, Page ID # 363.)

Ms. Ellis did not give consent to search the vehicle when first asked. (Transcript, RE 81, Page ID # 364.) The officer then explained to her that he was calling a dog to conduct a free air search and that if there was a positive alert on the vehicle, then he would have probable cause to conduct an interior search. (Transcript, RE 81, Page ID # 364-365.) The officer made the assumption that Ms. Ellis' statement, "So it's going to be on me" was a reference to illegal substances in the vehicle. (Transcript, RE 81, Page ID # 365.) Officer Morgan continued to push Ms. Ellis and she ultimately revealed that there was something illegal—methamphetamine—in the vehicle. (Transcript, RE 81, Page ID # 365-366.) She also named Mr. Williams as the person the methamphetamine belonged to because she then claimed that he went into the house at 935 Princeton. (Transcript, RE 81, Page ID # 366, 391.) Despite not knowing Mr. Williams very well, she told the officer that Mr. Williams was not a drug user, but a drug dealer. (Transcript, RE 81, Page ID # 366, 390, 407.)

Ms. Ellis then tried to give consent for the vehicle search, but the officer was "more comfortable" with a canine search since she had previously denied his request.

(Transcript, RE 81, Page ID # 367.) The officer claimed that he did not want her to feel "coerced" due to their conversation. (Transcript, RE 81, Page ID # 367.)

When the canine handler arrived, Officer Morgan again muted his body camera so that they could have a private conversation about his "reasonable suspicion" factors. (Transcript, RE 81, Page ID # 369.) The handler must have agreed—although no one knows what was actually said between the two—and the free air search was conducted. (Transcript, RE 81, Page ID # 369-370.) The handler alleged that the dog alerted on the exterior of the vehicle near the passenger's side near the back door by the bottom seams. (Transcript, RE 81, Page ID # 370-371.) The dog also allegedly alerted during a subsequent interior search to the floorboard of the back passenger seat. (Transcript, RE 81, Page ID # 371.) Suspected crack cocaine and methamphetamine were found. (Transcript, RE 81, Page ID # 371.) Mr. Williams was subsequently placed under arrest. (Transcript, RE 81, Page ID # 372.)

It is important to note, though, that while Officer Morgan may have seen the vehicle parked at the curb in front of 935 Princeton, he did not see Mr. Williams enter that house. (Transcript, RE 81, Page ID # 374.) Nor did Officer Morgan enter that residence himself or see any drug activity. (Transcript, RE 81, Page ID # 374.) Indeed, he did not see anyone inside that home. (Transcript, RE 81, Page ID # 374.) And the officer also agreed that there were houses on either side of 935 Princeton and it was legal to park a vehicle on either side of the street. (Transcript, RE 81, Page ID # 374-375.) Also, the officer did not know if the passengers had switched seats at any point in time that evening before he made contact. (Transcript, RE 81, Page ID # 376, 393.)

The officer admitted that it would have been an additional crime if Ms. Ellis had not stopped her car when Officer Morgan turned on his lights and siren. (Transcript, RE 81, Page ID # 376-377.) And he had to admit that *all* of the passengers in the vehicle appeared to be nervous—not just Mr. Williams. (Transcript, RE 81, Page ID # 377.) Officer Morgan also agreed that many people are nervous when pulled over by the police, not just those who are doing something illegal. (Transcript, RE 81, Page ID # 377.) And the officer agreed that someone's "street name" could also be simply a childhood nickname from family that stuck with the person. (Transcript, RE 81, Page ID # 377.)

Mr. Williams did not have any weapons on him, nor did he become aggressive or violent or try to flee at any time. (Transcript, RE 81, Page ID # 377-378, 382.) Most importantly, he did not have any drugs on his person and there was no objective evidence that Mr. Williams had engaged in any drug sales other than what Ms. Ellis had told the officers after being relentlessly pressured while knowing that she did not have a valid driver's license, did not have insurance, and had a warrant out for her arrest. (Transcript, RE 81, Page ID # 382-383, 389, 402.)

It should be noted that no one—not Ms. Ellis, nor any other passenger in the car, nor any police officer—saw Mr. Williams buy any narcotics. (Transcript, RE 81, Page ID # 378-379, 384.) And none of the "half dozen-ish" officers at the scene returned to 935 Princeton to attempt to corroborate the suspected drug activity there. (Transcript, RE 81, Page ID # 380-381.) The officer claimed that while it would not

have hindered this particular investigation, it may have hindered future ones. (Transcript, RE 81, Page ID # 380-381.)

It was pointed out on cross-examination that the other back seat passenger, Paris Black, had a warrant out for his arrest that related to narcotics. (Transcript, RE 81, Page ID # 368, 384.) At the time of the traffic stop, Mr. Black had a bag on his person and that bag was large enough to hold the narcotics that were found on the floor of the vehicle. (Transcript, RE 81, Page ID # 385.) It was also noted that Mr. Black was also fidgeting and nervous, just as Mr. Williams was. (Transcript, RE 81, Page ID # 385.) Critically, Mr. Black, along with the front seat passenger, were still in the vehicle for a period of time *after* Mr. Williams had been removed and *before* any other officer arrived at the scene. (Transcript, RE 81, Page ID # 385-386.)

Vital here, the officer claimed that he was able to simultaneously keep track of where the driver—who was not in the vehicle—was, pat down Mr. Williams, *and* keep eyes on the remaining vehicle occupants in order to monitor their activity inside the vehicle—all by himself and before any other officers arrived. (Transcript, RE 81, Page ID # 386.) And it should also be noted that the vehicle had tinted windows and it was dark outside. (Transcript, RE 81, Page ID # 325, 333, 399.) In fact, the officer had to use a flashlight to see into the backseat of the vehicle—even when he was standing right at the driver's door. (Transcript, RE 81, Page ID # 340, 399, 432.) Also complicating matters, the vehicle had clothes, bags, and purses strewn throughout the inside making it impossible to know what was already in the car prior to the passengers getting in. (Transcript, RE 81, Page ID # 393.)

Mr. Williams had been out of the car for approximately eleven minutes before the canine arrived. (Transcript, RE 81, Page ID # 395.) And he had been out of the car for about 22 minutes before the illegal substances were found. (Transcript, RE 81, Page ID # 396-397.)

Counsel argued that the extended traffic stop violated *Rodriguez v. United States*, 575 U.S. 348, 356; 135 S. Ct. 1609; 191 L. Ed. 2d 492; (2015), which states that a dog sniff is not fairly characterized as part of the officer's traffic mission. (Transcript, RE 81, Page ID # 402.) Here, the driver was pulled over for driving a vehicle without insurance. (Transcript, RE 81, Page ID # 402.) Additionally, she had not used a turn signal when entering the roadway and she did not have a valid driver's license. (Transcript, RE 81, Page ID # 402.) It is of utmost import here that Mr. Williams had not committed any crime. (Transcript, RE 81, Page ID # 402.)

In *United States v. Sharpe*, 470 U.S. 675, 686; 105 S. Ct. 1568; 84 L. Ed. 2d 605 (1985), counsel explained, this Court decided that the authority for a seizure ends when the tasks tied to the traffic infraction are or should have been completed. (Transcript, RE 81, Page ID # 402.) In short, to continue questioning the passengers and calling for that canine in the instant matter equated to a fishing expedition in violation of both *Rodriguez* and *Sharpe*. (Transcript, RE 81, Page ID # 402.)

Here, the officer lacked particularized suspicion with regard to Mr. Williams. (Transcript, RE 81, Page ID # 403.) The officer had no idea where the occupants of the vehicle had been sitting prior to the traffic stop. (Transcript, RE 81, Page ID # 403.) The other passengers—including Mr. Black—exhibited the same nervousness

as Mr. Williams *and* Mr. Black had a narcotics warrant out for his arrest *and* he was holding a bag on his lap that was large enough to contain the illegal substances found on the floor of the car. (Transcript, RE 81, Page ID # 368, 384-385, 403.) Additionally, the car was full of clothing, bags, and miscellaneous items that could have hidden any sort of contraband before Mr. Williams even entered the vehicle. (Transcript, RE 81, Page ID # 403.)

Counsel argued that all the officer knew when he initiated the stop was that the driver did not have insurance or a valid license. (Transcript, RE 81, Page ID # 403.) To leave Mr. Williams standing on the side of the road during an extended traffic stop violated his Fourth Amendment rights. (Transcript, RE 81, Page ID # 403, 407.) And the court agreed that Mr. Williams had standing to challenge the scope and duration of the seizure based on *United States v. Ellis*, 497 F.3d 606, 612 (6th Cir. 2007). (Transcript, RE 81, Page ID # 429.)

After the officer ascertained that the driver had no license or insurance, the citation should have been issued, the traffic stop should have ended there, and no further inquiry was necessary. (Transcript, RE 81, Page ID # 402, 405, 430.) To pull the occupants out and continue to question them went too far afield and violated Mr. Williams' constitutional rights. (Transcript, RE 81, Page ID # 402, 405, 408.)

Additionally, counsel pointed out that the other details of the situation do not support attributing the evidence found after the extended stop to Mr. Williams. (Transcript, RE 81, Page ID # 404.) These include the facts that:

- The car was legally parked when the officer first saw it. (Transcript, RE 81, Page ID # 375.)
- No one was witness to what events may have taken place inside the house at 935 Princeton. (Transcript, RE 81, Page ID # 374, 426.)
- No one saw any illegal substances exchanged. (Transcript, RE 81, Page ID # 382-383, 389, 426.)
- The car was messy, and many items could have been previously hidden without the occupants' knowledge. (Transcript, RE 81, Page ID # 386, 403.)
- The officer had no idea where the occupants of the car had been sitting or if they had switched seats throughout the evening prior to the traffic stop. (Transcript, RE 81, Page ID # 376, 393, 403.)
- Every occupant was nervous during the stop, not just Mr. Williams. (Transcript, RE 81, Page ID # 339, 341-342, 352, 360, 377, 385, 419, 425, 427, 431.)
- Two other occupants of the vehicle—*not* Mr. Williams—had warrants out for their arrest and one of those warrants was for narcotics, no less. (Transcript, RE 81, Page ID # 354-355, 368, 384, 403, 404, 417, 423, 425, 431.)
- The other person with the narcotics warrant—Mr. Black—had a bag on his lap that could have held the narcotics found and was exhibiting the

same "suspicious" actions as Mr. Williams. (Transcript, RE 81, Page ID # 360, 367, 385, 405, 425-426, 431.)

- No drugs or weapons were found on Mr. Williams' person. (Transcript, RE 81, Page ID # 377-378, 382, 389, 406, 410, 428.) However, marijuana was found on Mr. Black's person, albeit a legal amount for his age. (Transcript, RE 81, Page ID # 361.)
- Mr. Williams did not resist at any point and was not at all aggressive or violent. (Transcript, RE 81, Page ID # 378, 406.)
- And Mr. Williams did *not* have a warrant out for his arrest. (Transcript, RE 81, Page ID # 406, 407, 421, 422, 423, 426, 427, 431.)

Yet Mr. Williams was the *only* one of the four occupants arrested. (Transcript, RE 81, Page ID # 355, 367, 372.) And he was the *only* one charged with any crime in relation to this incident. (Transcript, RE 81, Page ID # 424.)

The court and prosecutor erroneously relied on Ms. Ellis' self-serving, biased, and unreliable explanation that Mr. Williams was a "meth dealer," that Mr. Williams entered the house on Princeton, and the unsubstantiated report that the house on Princeton was a "drug house" for the basis of its opinion allowing the extension of the stop. (Transcript, RE 81, Page ID # 366, 390, 407, 408-409, 426, 427, 430-431.)

Counsel then pointed out that "[t]he only crime that was afoot [] was that the driver was driving without a valid license and without insurance. She admitted, he verified it. At that point, any additional fishing prolongs the stop illegally." (Transcript, RE 81, Page ID # 430.) And it is worth noting here that the court

questioned counsel about the relationship between the length of the stop and the fact that the car could not be driven away by anyone since it had no insurance on it. (Transcript, RE 81, Page ID # 410.) Of great import, it *is* unlawful for a vehicle to be driven without insurance—in fact, it was the main reason cited by the officer for the traffic stop—*yet Ms. Ellis was allowed to drive the car away after Mr. Williams' arrest* with a warrant out for her arrest, an uninsured vehicle, no valid driver's license, and the fact that she had just committed an arrestable offense. (Transcript, RE 81, Page ID # 328, 334, 347, 354-355, 403, 410-412, 421, 437.) To be sure, the officer went on a "fishing expedition" and it cannot be argued that his fishing trip paid off for him. (Transcript, RE 81, Page ID # 402-403, 410, 421, 430.)

The court correctly stated that the furtive movements and lack of eye contact from the two backseat passengers alone may not have been enough to prolong the stop. (Transcript, RE 81, Page ID # 434.) However, the court erred when it ruled that the information gleaned throughout the stop allowed the officer to conclude that criminal activity may be afoot. (Transcript, RE 81, Page ID # 434-435.) In the end, the court found that the traffic stop, the elongation of the stop, and the subsequent search of the vehicle were valid. (Transcript, RE 81, Page ID # 431-432, 435-436.)

At his sentencing hearing, Mr. Williams also objected to the quantity of methamphetamine attributed to him. (Transcript, RE 83, Page ID # 494.) Indeed, any of the other passengers could have dropped the product in front of where Mr. Williams had been sitting after Mr. Williams had been removed from the car and before any other officers reported to the scene to keep watch of the remaining occupants.

(Transcript, RE 83, Page ID # 497-498.) The court overruled the defense's objection to the amount discovered in the car after it concluded that this argument was "totally incredible." (Transcript, RE 83, Page ID # 502.)

The court stated that it intended to impose a sentence "at the low end of the advisory guideline range" and ultimately sentenced Mr. Williams to a term of 188 months imprisonment—with a supervised release term of five years—within the Bureau of Prisons. (Transcript, RE 83, Page ID # 515.) Mr. Williams filed an appeal with the United States Court of Appeals for the Sixth Circuit, and his conviction was affirmed. (Appendix A, Opinion, RE 34-2, Page ID # 8.)

REASONS FOR GRANTING THE PETITION

I. There was insufficient particularized suspicion to conclude that the contraband officers found in the car belonged to Mr. Williams.

The district court clearly erred in its factual findings and improperly reached the legal determination that there was reasonable suspicion to prolong the search which resulted in the recovery of contraband. As the government noted, the district court focused on seven factors that it believed created probable cause to search the interior of the car and that the contraband found in the car belonged to Mr. Williams. (Government Response Brief, RE 27, Page ID # 23; Transcript, RE 81, Page ID # 433-435.) It listed the time of the traffic stop, the driver's lack of a valid license, the driver's lack of insurance, lies told by the driver, Mr. Williams' nervousness, the driver's pitstop at a supposed drug house, and Mr. Williams' designation as a priority offender. (Government Response Brief, RE 27, Page ID # 23.) None of these, though, justify the officer taking the driver out of the car and relentlessly interrogating her

until she told him something that he wanted to hear. He should have either arrested her for her offenses and warrant, or issued her a citation and sent them on their way. The prolonged stop never should have happened. And the court was clearly wrong when it ruled otherwise.

Notably, most of the factors the court relied on were associated with the *other* people in the car, not Mr. Williams himself. Perhaps not surprisingly, the government also omitted the fact that Mr. Williams was the *only* person in the car who did *not* have an active warrant for his arrest or commit a crime in front of law enforcement. Moreover, Mr. Williams was extracted from the car before the backseat passenger who had a warrant for dangerous drugs and coincidentally had drugs on his person when he was searched.

Contrary to the district court's reasoning, even if this Court should agree that the actions of *other* people in the car justified the prolonged stop, they do not translate into specific and articulable facts that justify the continued detention of *Mr. Williams*. This is particularly so since the officers patted him down and found no contraband whatsoever on Mr. Williams' person. Further, the driver's lies and the evidence found in the backpack of the backseat passenger do not attach to Mr. Williams to become justifiable cause to prolong the detention of Mr. Williams. Because a person's mere proximity to others suspected of criminal activity does not give rise to a constitutional justification to search that person, the district court's decision was incorrect. See *United States v. Bell*, 762 F.2d 495, 499 (6th Cir. 1985); see also *Sibron v. New York*, 392 U.S. 40, 62-63; 88 S. Ct. 1889; 20 L. Ed. 2d 917 (1968).

Additionally, the car was legally parked when the officer first saw it, rather than stopped and conducting any suspicious activity. It was merely parked on the side of the road, allegedly with a dome light on. This is certainly not cause for suspicion or surveillance. The officer then made much of the driver's route and Mr. Williams' designation as a priority offender. But the driver's route was not necessary information for the officer to cite the driver for having no license, no insurance, and a warrant out for her arrest. And the Sixth Circuit has held that knowledge of a defendant's criminal history, when combined with other minimal factors such as nervousness and illogical travels, was insufficient to establish reasonable suspicion. See *Joshua v. DeWitt*, 341 F.3d 430, 446 (6th Cir. 2020); *Florida v. Royer*, 460 U.S. 491, 512; 103 S. Ct. 1319; 75 L. Ed. 2d 229 (1983). Thus, this factor should have been given no weight. Particularly given the district court's assertion that the furtive movements and lack of eye contact by *both* rear seat passengers did not amount to reasonable suspicion. (Transcript, RE 81, Page ID # 434.)

Additionally, despite the district court determining that the car was not going anywhere after the stop because it was not insured in an attempt to justify the violation of Mr. Williams' constitutional rights, the driver ultimately was allowed by law enforcement to get into that very same car and drove away following Mr. Williams' arrest, despite having a warrant for her arrest and after she committed an arrestable offense that was witnessed by an officer. (Transcript, RE 81, Page ID # 328, 334, 347, 354-355, 403, 410-412, 421, 437.) Because courts must review the evidence "with a common sense approach, as understood by those in the field of law

enforcement," the district court—after the fact—cannot give this factor more weight than the actual troopers did at the time of the incident. *United States v. Stepp*, 680 F.3d 651, 664 (6th Cir. 2012). In other words, since the officers did not feel that the driver's multiple violations of the law were important enough to address, then the court could not give them any weight, either. Thus, the district court erred when it considered this factor as part of the totality of circumstances.

At the suppression hearing, the officer testified that the other backseat passenger who remained in the car after Mr. Williams was extracted from the car had a bag on his lap that was sizeable enough to secret the contraband officers found on the floorboard. (Transcript, RE 81, Page ID # 368, 384-385, 403.) The officer also confirmed that the car was full of clothing, bags, and miscellaneous items that could have hidden any sort of contraband before Mr. Williams even set foot therein. (Transcript, RE 81, Page ID # 403.) Critically, there was no objective evidence that Mr. Williams had engaged in any drug sales beyond the driver's uncorroborated and self-serving misrepresentations. (Transcript, RE 81, Page ID # 382-383, 389.) And when assessing the driver's credibility, it is critical to remember that she had multiple arrestable violations of the law herself at the time of the traffic stop. Taken together, these factors adjure a conclusion that the officer lacked the objective and particularized suspicion that this Court has deemed indispensable to the Fourth Amendment. See *City of Indianapolis v. Edmond*, 531 U.S. 32, 37; 121 S. Ct. 447; 148 L. Ed. 2d 333 (2000). Instead, the officer stacked and applied assumptions that were unreasonable without further factual basis in a manner that is abhorrent to the

prohibition against officers relying on hunches. *Kansas v. Glover*, 140 S. Ct. 1183, 1187; 206 L. Ed. 2d 412 (2020).

The government engaged in revisionist history when it stated that methamphetamine was found at Mr. Williams' feet. (Government Response Brief, RE 27, Page ID # 13, 27.) In fact, here the officer testified that Mr. Williams did not have any drugs or weapons on his person and there was no proof that he planned or made any drug sales. (Transcript, RE 81, Page ID # 382-383.) There was time, however, for the other backseat passenger—who *did* have drugs on his person as well as a warrant for charges related to illegal substances—to hide the contraband where Mr. Williams had been sitting before being pulled from the vehicle. And there is nothing to support the notion that the contraband was not there before Mr. Williams even got into the vehicle.

Finally, the government assumed that the inevitable discovery doctrine would apply in this case because the car was not going anywhere given that it did not have insurance, which the district court posited was further evidence that the stop was not impermissibly extended. (Government Response Brief, RE 27, Page ID # 24.) However, as previously noted, the driver was allowed to drive that very car away after Mr. Williams' arrest even though there was a warrant out for her arrest, she was driving an uninsured car, she had no valid license, and she had just committed an arrestable offense. (Transcript, RE 81, Page ID # 328, 334, 347, 354-355, 403, 410-412, 421, 437.) Since she was allowed to drive away as free as a bird, that reasoning cannot be used as justification for the prolonged stop that led to the search of the car

and the improper designation of Mr. Williams as the owner of the contraband found as a result. Mr. Williams had been out of the car for approximately 22 minutes before the illicit drugs were found. (Transcript, RE 81, Page ID # 396-397.) This triples the time of the seven- or eight-minute delay for purposes of conducting a dog sniff that this Court concluded was impermissible in *Rodriguez*, 575 U.S. at358. For all of these reasons, the inevitable discovery doctrine would not apply.

When looking at the totality of the circumstances—including the officer's own testimony in addition to his actions during the traffic stop—there was no safety concern in relation to Mr. Williams that rose to the level of reasonable suspicion and that warranted a search. Furthermore, there were insufficient articulable facts that the district court used to justify the claim that the drugs belonged to Mr. Williams. The district court erred in coming to this conclusion, the Court of Appeals for the Sixth Circuit should not have affirmed, and their decisions should be overturned by this Court.

II. Officers carried out a prolonged detention beyond the time reasonably required to complete the mission of issuing a ticket for traffic violations.

Traffic stops are, by their nature, typically short in duration; thus, they are akin to *Terry* stops. *Rodriguez v. United States*, 135 S. Ct. 1609, 1614; 191 L. Ed. 2d 492 (2015). "[T]he tolerable duration of police inquiries in the traffic-stop context is determined by the seizure's 'mission'—to address the traffic violation that warranted the stop . . . and attend to related safety concerns." *Id.* The stop may not last longer than is necessary to achieve this mission. *Id.* "Authority for the seizure thus ends

when tasks tied to the traffic infraction are—or reasonably should have been—completed." *Id.*

In Mr. Williams' case, approximately 12 minutes elapsed from the time the traffic stop began before the police decided to search him. (Transcript, RE 81, Page ID # 415, 417.) Then another 21 minutes passed while officers summoned a drug dog and searched the car before returning to interrogate Mr. Williams. (Transcript, RE 81, Page ID # 397-398, 417.) It is worthy of mention that the officer in *Rodriguez* made the driver and passenger wait for seven or eight minutes and this Court ultimately disagreed with the Court of Appeals for the Eighth Circuit's determination that a seven- or eight-minute delay is a permissible de minimis intrusion. *Rodriguez*, 575 U.S. at 353.

The car here was originally pulled over for failing to use a turn signal. But instead of issuing a citation for that minor violation, Officer Morgan deliberately chose to escort the driver to a nearby sidewalk and interrogate her before another officer finally returned to the car and asked Mr. Williams to step out of the car. At this juncture, Officer Morgan had already gone back to his police car and discovered that the driver had an active warrant for her arrest in addition to an expired learner's permit. Because tasks for the traffic stop should have been completed after the officer had the driver's name and ran it through the computer, authority for the seizure ended and the detention was prolonged. At this point, the officer should have arrested the driver and released the passengers from the scene.

Curiously, as can be seen on what incomplete traffic stop footage there was, the officers mute their cameras at multiple points and are seen congregating in the traffic stop footage instead of carrying on with their traffic stop as the law requires. They were plotting the roadside interrogations and canine search that followed. However, by this point, the mission of the stop was achieved, and the officers should have given the driver a ticket for the violation—if they felt the need to—and let the car go on its way. And contrary to the district court's contention that the car was inevitably going to be searched for impound purposes, Ms. Ellis was ultimately allowed to drive the car away despite having no insurance or even a valid license. Thus, the court's reasoning was not sound or accurate given the events that took place. Neither Officer Morgan nor any of the others who arrived to provide backup had any idea whether the passengers had switched seats at any point in time before the official police contact at issue here. They ignored the fact that the car was full of clothing, bags, and other receptacles that could have hidden the contraband before Mr. Williams set foot inside it. They also let the other back seat passenger—who had a warrant for his arrest related to a narcotics violation, was in possession of a bag large enough to hold the contraband found, and had drugs on his person when searched—go free from the scene with no repercussions of any sort. It is not just concerning, but shockingly so, that Mr. Williams was the only person arrested and charged with a crime even though other occupants had active warrants or were witnessed committing crimes by Officer Morgan and his cohorts. The police singled out Mr. Williams during their "fishing expedition" and—like many fishermen's

stories—the tale of the whopper they caught got bigger and better every time it was told. And this injustice must not be countenanced by any court of law.

CONCLUSION AND RELIEF REQUESTED

The law applies to all regardless of the crimes that a man has been charged with committing. In this case, Mr. Williams' rights were violated by numerous decisions that were made before and during the motion to suppress and also at sentencing. The district court and the United States Court of Appeals for the Sixth Circuit erroneously held otherwise. Accordingly, Mr. Williams respectfully requests that this Court grant his petition.

Respectfully submitted,

CHARTIER & NYAMFUKUDZA, P.L.C.

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/s/ TAKURA NYAMFUKUDZA
Takura Nyamfukudza