

No. 23-7350

FILED  
APR 16 2024  
OFFICE OF THE CLERK  
SUPREME COURT, U.S.

IN THE  
SUPREME COURT OF THE UNITED STATES

RAUL ZAMORA-QUINONOS — PETITIONER  
(Your Name)

vs.

STATE OF ILLINOIS — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

RAUL ZAMORA-QUINONOS  
(Your Name)

2500 Rt. 99 S.  
(Address)

Mt. Sterling, Illinois 62353  
(City, State, Zip Code)

(Phone Number)

**QUESTION(S) PRESENTED**

I. WHETHER LAW ENFORCEMENT VIOLATED THE PETITIONER'S RIGHT TO BE FREE FROM UNREASONABLE SEARCH AND SEIZURE UNDER THE FOURTH AMENDMENT TO THE UNITED STATES CONSTITUTION WHEN THEY CREATED EXIGENT CIRCUMSTANCES TO PROLONG A TRAFFIC STOP AND COERCE PETITIONER INTO INVOLUNTARILY CONSENTING TO THE SEARCH OF HIS HOUSE AND ENTERING HIS VEHICLE WITHOUT HIS CONSENT.

## **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**

People v. Zamora-Quinonos, 2023 IL App (3d) 210455-U (Ill.App. 2023)

People v. Zamora-Quinonos, No. 130263 (Ill. S.Ct. 2024)

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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**

For cases from federal courts:

The opinion of the United States court of appeals 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 is unpublished.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 United States district 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 is unpublished.

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 is unpublished.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 Appellate Court of Illinois \_\_\_\_\_ court 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 is unpublished.

## JURISDICTION

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.

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 January 24, 2024.  
A copy of that decision appears at Appendix C.

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

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

U.S. Const., amend. IV

STATEMENT OF THE CASE

The petitioner, Raul Zamora-Quinonos, along with Jesus Perez-Torres, was charged by supplanting indictment with four counts of unlawful delivery of a controlled substance and one count of unlawful delivery of methamphetamine, all of which were Class X offenses under Illinois law. (C10-12) Each count alleged that the petitioner possessed, with the intent to deliver, different quantities and/or different substances: Count I alleged that the petitioner possessed more than 400, but less than 900, grams of a substance containing cocaine, in violation of 720 ILCS 570/402(a)(2)(C); Count II alleged that he possessed more than 900 grams of a substance containing cocaine, in violation of 720 ILCS 570/402(a)(2)(D); Count III alleged that he possessed more than 100, but less than 400, grams of a substance containing heroin, in violation of 720 ILCS 570/401(a)(1)(B); Count IV alleged that he possessed more than 400, but less than 900, grams of a substance containing methamphetamine, in violation of 720 ILCS 646/55(a)(2)(e); and Count V alleged that he possessed more than 100 grams of a substance containing methamphetamine in a structure protected by a firearm, in violation of 720 ILCS 646/55(b)(1)(C),(b)(2)(D) (C10-12).

The petitioner filed a motion to quash arrest and suppress evidence (C17-18). He noted that the police did not have a warrant and alleged that the officers lacked probable cause to believe he had committed a crime and that they lacked reasonable suspicion to conduct a "Terry stop investigation of the Defendant" (C17). He alleged that after being removed from his vehicle officers entered his vehicle and searched it and his jacket, which was inside the vehicle, "without probable cause and without his consent" (C17-18). The defense asked that the evidence found as a result of this unlawful search be suppressed (C17-18).

At the hearing on the motion to suppress, the defense called Earl Corbett, a former City of Kankakee police officer, who had been employed by the Department of Corrections Gang Unit since 2009 (R49). Corbett had been assigned

to the Chicago Drug Enforcement Agency (DEA) task force and was 1 of about 14 law enforcement officers who were involved in a joint investigation of a stretch of South Longwood Drive in Kankakee on November 30, 2017 (R49-52, 57). Special Agent Tom Asselborn had notified Corbett and other task force members that, based upon information the DEA had received, they were to watch for a Hispanic male "who was in possession of a large sum of money" (R52, 55-56). The plan was for officers to follow any Hispanic male who drove away from the area until he committed a traffic violation (R65).

At approximately 1:00 p.m., after officers had been watching the house for three or four hours, Corbett - who was parked in a car that was equipped with lights and sirens approximately one mile away at an abandoned car dealership - was notified that two Hispanic males left 381 South Longwood Drive (R60-62). Corbett was informed that one of the men, later identified as the petitioner, left in a Honda sedan a minute or two before the other, later identified as Perez-Torres, drove away in a white pickup truck in the same direction as the Honda (R60-62, 65-66, 69). During the hearing, when Corbett was asked if Zamora-Quinonos had been seen doing anything suspicious, Corbett commented that he "was carrying a jacket in his hand - in his arm and he went inside the car. That was it." (R62). Corbett further testified that the officer who watched the house did not report that Zamora-Quinonos looked suspicious or appeared to have anything illegal in his possession (R63). Corbett did not remember what the weather was like on that last day of November, but he himself wore a coat and had turned on the heat in the car (R63).

Shortly after the petitioner drove away from the house, State Police Officer Greg Lecas observed the Honda drive through an intersection without stopping for a stop sign (R101). Corbett was then advised that the Honda "ran a stop sign" (R64). Corbett waited to intercept the Honda and the truck, as five or six officers followed them (R65). When Zamora-Quinonos stopped in the left-turn lane at a red traffic light, Corbett, who was immediately behind

him, activated his lights and siren (R67, 91). None of the unmarked cars driven by Corbett or the other officers were equipped with dash cams, so there was no video of the stop (R67). Corbett approached the driver's side of the Honda, while Lecas and another State Police Officer, Dan Lacko, approached the passenger side (R68, 94). All three officers wore vests that bore the word "Police" (R68). Corbett asked the petitioner for his driver's license and proof of insurance, and Zamora-Quinonos handed him a driver's license from Mexico (R69, 91). Corbett gave the license to Officer Lacko to call and check on it (R91). Corbett could not remember if the petitioner provided him with insurance information and did not think that his license was valid (R70). The officers removed Zamora-Quinonos from his vehicle (R70). While it was standard practice to have a motorist stay in the car during a traffic stop for officer safety, Corbett wanted "to get [petitioner] out at that point" because "he didn't have an Illinois or United States driver's license" (R71). Zamora-Quinonos did not make any furtive movements or act suspiciously (R73). He talked to Corbett and Officer Lacko in English and was cooperative (R73).

At that point, Corbett "heard some emergency sirens going off and engines revving up on cars and at that time "we looked to the south like going to the grade school area and we saw the white pickup truck coming toward us at a high speed, at a high rate of speed" (R70). Corbett grabbed the petitioner's arm and the officers moved him to the front of the Honda to get out of the truck's way (R70, 72, 93). The white truck "shot past" Corbett, Lacko, Lecas and the petitioner at a "high rate of speed driving pretty erratic" (R74). Lecas left to join the pursuit of the white truck (R94). Corbett decided, in part "because I guess school was about to dismiss," that it was "for the best interest of safety" to move the investigation "from that area across Court Street to where the old K-Mart, flea market parking lot is located" (R74). At that time, the officers did not have any information about whether the petitioner's license was valid or whether the car was insured (R96).

Without obtaining Zamora-Quinonos' consent, Corbett entered the petitioner's vehicle and drove it to the abandoned parking lot and then ran back to get his own car (R74). The petitioner was put in "Lacko's van, which was warm with heat, and then Lacko drove him across" (R74-76). Corbett testified that he did not touch anything in Zamora-Quinonos' vehicle other than the steering wheel and the gear shift and that he did not notice that there was a jacket in the front passenger seat while he drove the car to the parking lot (R75, 78).

Once at the parking lot, the officers again made the petitioner stand outside in the cold, even though he was "really shaking like either he was really cold or really nervous" (R75). "So at that time," Corbett testified, "I noticed there was a jacket sitting on the passenger seat of the car and I asked him do you want your jacket and he said yes" (R76). At this point the petitioner was not free to leave or to get the jacket himself (R77). Corbett then entered the car; retrieving the jacket, he felt a large object under the jacket (R76). Corbett did not have Zamora-Quinonos' consent to search the coat (R82-83). Corbett testified that he picked up the coat and a brick shaped object containing cocaine fell from a coat pocket and onto the car seat (R79-80, 83). Corbett denied reaching into the jacket pocket and finding the brick (R79). The parties stipulated that the Special Agent in charge of the investigation, Tom Asselborn, prepared a report that indicated Corbett found the brick-shaped object in a coat pocket (R99). Corbett read Asselborn's report after it was written, but did not ask Asselborn to amend the report (R82).

At the conclusion of evidence, defense counsel argued that the officers had no authority to restrict Zamora-Qinonos' movement at the parking lot, as he "did nothing wrong other than be a Hispanic male in that area going through a stop sign" (R102). Counsel conceded that the officers has a right to stop the car because of the traffic violation, but challenged the reasonableness of removing the petitioner from the car, particularly given that officers generally prefer that people stay in their cars during traffic stops for officer safety.

(R103). The court questioned whether Zamora-Quinonos' movement was any more restrictive than is normal for a traffic stop (R104). Counsel responded that the officers wrongly prevented the defendant from retrieving his coat from his car to warm up in the cold (R104). Noting that the officers could have allowed Zamora-Quinonos to stay in the warm van once he had been removed from the initial stop, counsel termed the officers' actions a "ruse" designed to allow the officers to search the defendant's coat (R104-05). The court asserted that the only reason that the petitioner had been moved was "because a pickup truck associated with his Honda came rattling by chased ... by several DEA agents," and that the officers had only put him in the van because they had to avoid being struck by a pickup truck that came flying by" (R105).

Later in the hearing defense counsel again argued that letting Zamora-Quinonos out of the police van was a ruse because he was not free to leave, but was instead already under arrest (R108). While the court continued to state that police officers would be free to search the coat because of the potential that it could hold a weapon, defense counsel noted, and the court conceded, that officers regularly allow drivers to reach into their glove compartments to retrieve proof of insurance (R100). The court then concluded that the stop was not unduly prolonged and therefore the petitioner's motion to suppress was denied (R111).

Zamora-Quinonos waived his right to a jury trial(C21; R123-24). The Honorable Clark E. Erickson presided over a bench trial that began one month before COVID-19 struck (R146), and ultimately ended in a mistrial when it could not be completed before Judge Ericlson retired in October 2020 (SUP R 240, 247, 344). The matter then proceeded to a bench trial presided over by the Honorable William S. Dickenson (R351, et seq.). At the start of the re-trial, defense counsel noted that, during the first trial, he had filed a second motion to suppress, in which it was alleged that the officers had not properly explained or translated the waiver of consent signed by the petitioner, whose native

language is Spanish, and who utilized an interpreter throughout all court proceedings (C31-34). Court and counsel agreed that they "could take that issue as having been heard and not need to do it again" (R353-55, SUP E 29).

Carlos Huertas, a Chicago police officer and member of the DEA Task Force, was at the car dealership when Corbett was dispatched to pursue and stop Zamora-Quinonos. At that time, Agent Gainer directed Huertas to secure the house at 381 South Longwood Street (R432-35). Gainer joined Huertas there, and, after a while, Corbett and another officer brought Zamora-Quinonos to the house (R413, 436). Huertas, whose first language was Spanish, advised Zamora-Quinonos of his Miranda rights by reading them to him in Spanish (R442, 506). Zamora-Quinonos indicated that he understood and agreed to talk to the officers (R437, 441-42). Outside the house, Huertas read a consent to search card, printed by the DEA, to the petitioner in Spanish (R438, 506). Zamora-Quinonos gave verbal consent to search the house but Huertas did not have him sign the form until they went inside the house (R439-40, 447-48, 507-08). Although Gainer did not recall "exactly what the temperature was," he remembered "that it was very cold" (R546).

During their search of the house and garage officers found various amounts of "several kinds of drugs" as well as drug paraphenalia (R481-82, 484-86, 487-89, 492-93, 514; St. Ex. 3A, 3B, 3C, 3D, SUP E 9-12). They also located a photograph of Zamora-Quinonos' Mexican passport, what appeared to be his registration card, and his border crossing card (R521; St. Ex. 4A, 4B, SUP E 15-16).

After the State rested, the parties indicated that the officers had not made any video-recordings of the arrest or the search of the house (R594-96). The petitioner personally advised the court that he did not want to testify (R593). The petitioner rested, and the matter was set for closing arguments (R590, 592).

When the matter came for closing arguments, the State waived its initial argument (SUP R 253). Defense counsel noted that the investigation had not been "particularly clean," (SUP R 254), the unusual nature of the traffic stop, and urged the court to find Zamora-Quinonos not guilty (SUP R 255, 256).

The court was concerned that the officers had not recorded any portion of the arrest or investigation (SUP R 271). However, the petitioner's possession of a significant amount of cocaine in the car required a finding of guilt as to that count (SUP R 271, 273). The evidence found at the house established that Zamora-Quinonos was "heavily involved in the staging and selling of narcotics out of that residence" (SUP R 272). The court found Zamora-Quinonos guilty of all counts except Count V, which had alleged that the petitioner possessed a firearm in the commission of the drug offenses (SUP R 273-75). The court ordered a presentence investigation ("PSI") (SUP C 2-12).

The petitioner filed a motion for a new trial and argued that he had not been proved guilty beyond a reasonable doubt, the court erred by admitting evidence that had been illegally seized from the residence, the court erred when it denied his motion to suppress evidence, and the court erred when it admitted evidence seized following an improper search of his person (C39). The court ultimately denied the motion and imposed a sentence of 25 years for Counts I through IV to be served concurrently (C43; R628).

Zamora-Quinonos filed a timely notice of appeal, and the Office of the State Appellate Defender was appointed to represent him on appeal (C45, 47). Appellate counsel raised a single issue on appeal, arguing that the trial court erred in denying the motion to suppress evidence seized from Zamora-Quinonos' vehicle after officers manufactured exigent circumstances in order to justify their seizure of petitioner and entry into his vehicle and house. The Appellate Court of Illinois affirmed the conviction on August 10, 2023, reported at *People v. Zamora-Quinonos*, 2023 IL App (3d) 210455-U. A motion for rehearing was denied

on August 30, 2023.

A timely petition for leave to appeal to the Illinois Supreme Court was filed by Zamora-Quinonos. The court denied review on January 24, 2024. *People v. Zamora-Quinonos, No. 130263.*

This petition follows.

REASONS FOR GRANTING THE PETITION

I. The Court should grant certiorari in the instant matter to determine the constitutionality of law enforcement creating exigent circumstances in order to justify the nonconsensual entry into a person's vehicle and home.

The Fourth Amendment to the United States Constitution protects the rights of individuals against unreasonable searches and seizures. U.S. Const., amend. IV. This Court has held that the search of a vehicle without a warrant can be reasonable. See *Collins v. Virginia*, 138 S.Ct. 1663, 1669 (2018). In *Collins*, the Court found that a warrantless search of a vehicle may be reasonable when either of two automobile exceptions "come into play" and the officer has probable cause. *Id.* at 1670. These exceptions are (1) the "ready mobility" of vehicles, *id.*, at 1669 (citing cases), or (2) the "pervasive regulation of vehicles capable of traveling on the public highways." *Id.*, at 1670.

To justify either of these exceptions the officer must have probable cause to believe that the vehicle contains contraband or evidence of a crime. See *United States v. Randle*, 2023 U.S. Dist. LEXIS 117130, \*8-9 (July 6, 2023, Ill.C.D.) (citing *United States v. Havis*, 791 F.3d 772, 778 (7th Cir. 2015)). After arrest, an officer may also search a vehicle if they have a reasonable belief that it contains evidence of the crime. See *id* (citing *United States v. Edwards*, 769 F.3d 509, 514 (7th Cir. 2014)).

Absent these exceptions to the Fourth Amendment restrictions is "a search that is conducted pursuant to consent." *Schneckloth v. Bustamonte*, 412 U.S. 218, 219 (1973). While such a search is valid, the State had the burden of proving the consent was "freely and voluntarily given." *Id.* at 222. In determining whether consent was "freely and voluntarily given" the court must consider the totality of the circumstances. *Id.* at 227, 232-33, 249.

The Tenth Circuit Court of Appeals has said that courts must consider whether (1) "consent was unequivocal and specific and freely and intelligently

given," and (2) whether any "implied or express duress or coercion" was used. *United States v. Sanchez*, 608 F.3d 685, 690 (10th Cir. 2010). The Seventh Circuit requires a more expansive consideration, including factors such as: "(1) the person's age, intelligence, and education; (2) whether he was advised of his constitutional rights; (3) how long he was detained before he was given consent; (4) whether his consent was immediate, or was prompted by repeated requests by the authorities; (5) whether any physical coercion was used; and (6) whether the individual was in police custody when he gave his consent." *United States v. Sandoval-Vasquez*, 435 F.3d 739, 744 (7th Cir. 2006) (citing *United States v. Santiago*, 428 F.3d 699 (7th Cir. 2005)).

Language barriers are also relevant when determining whether consent was freely and intelligently given. See *United States v. Cruz-Zamora*, 318 F.Supp.3d 1264, 1268 (D.Kan. 2018).

In the instant case, there is no question that the petitioner is a Mexican native and at the time of his arrest and subsequent trial his native language was Spanish. During all court proceedings he made use of an interpreter. Nothing in the record of the hearing on the motion to suppress in the trial court went to show that there was any reason to believe that Zamora-Quinonos was able to understand the English language well enough to give consent during the traffic stop. At the house, prior to the search of the residence, an officer was brought in to read petitioner his Miranda rights in Spanish and was also read a consent to search card produced by the DEA. Despite this, it was not until the search of the residence was under way that officers had Zamora-Quinonos sign the consent card.

The officers who conducted the traffic stop testified that they removed petitioner from his vehicle for their safety. While standing outside of the vehicles, a white pickup truck sped by followed by other officers in pursuit, after which Zamora-Quinonos was placed in a police van and his vehicle was moved to another location, again for officer safety.

When reviewing the happenings at this point in petitioner's detention the court erroneously asserted that he was placed in the police van to keep him from being hit by the speeding pickup truck, when it had already passed by. Contrary to the court's findings, at this point there was no danger to the officers or Zamora-Quinonos and therefore no justification in moving him or his vehicle from the area.

Once in the parking lot officers again brought the petitioner into the cold and had him stand there for no apparent reason. Both officers testified that they saw that Zamora-Quinonos was shivering and shaking and that they asked him if he wanted one of them to get his coat from his car. No part of this interaction was recorded, something that the court noted with concern, and so the court was unable to independently determine whether petitioner actually understood what the officers were asking him and whether he gave explicit consent for one of them to once again enter his vehicle. The officer had been previously told that it was believed that the petitioner's coat contained contraband and this provided the pretense needed to apparently justify the search of the coat where no probable cause existed.

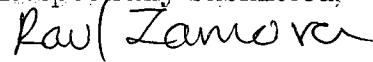
Later, at the house, officers felt that it was necessary to have a translator gain consent from the petitioner, supporting the conclusion that he did not previously understand the officer's questions regarding his coat. Here, even though an officer was brought to translate the Miranda rights and a consent to search card, the card was not signed by Zamora-Quinonos until the search of the house had started and likely after contraband had been found.

Taking into account all of the circumstances surrounding the search of petitioner's vehicle and the subsequent search of his residence, it cannot be said that he gave consent to either search freely and intelligently.

## CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Raul Zamora-Quinonos

Date: April - 16 - 2024