

No. _____

IN THE

SUPREME COURT OF THE UNITED STATES

JACOB W. BARRON — PETITIONER

VS.

UNITED STATES — RESPONDENT

ON PETITION FOR A WRIT OF CERTIORARI TO THE

UNITED STATES FIFTH CIRCUIT COURT OF APPEALS

PETITION FOR WRIT OF CERTIORARI

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QUESTION PRESENTED

Mr. Jacob W. Barron's probation officers conducted a compliance check of Mr. Barron's home after they were contacted by Rapides Parish Sheriff's Office ("RPSO") Deputies concerning an ongoing investigation into alleged methamphetamine trafficking by Mr. Barron. After Mr. Barron's probation officers completed the purpose of the compliance check and found alleged violations of Mr. Barron's probation terms, including the purported presence of illegal pills and drug paraphernalia, Mr. Barron's probation officers invited RPSO Deputies to conduct a warrantless search of Mr. Barron's home related to the ongoing methamphetamine investigation. Because Mr. Barron's probation officers allowed RPSO Deputies to conduct a warrantless search of Mr. Barron's home on less than probable cause after the purpose of the compliance check had been achieved, did the warrantless search of Mr. Barron's home that was not related to monitoring his compliance with his probation offended Mr. Barron's Fourth Amendment expectation of privacy?

For the reason set forth herein, the United States District Court and the United State Fifth Circuit Court of Appeals erred in denying Mr. Barron's motion to suppress. Unless this Court addresses this constitutional violation, probationers will be subject to warrantless searches unrelated to ensuring compliance with the terms of their probation. This Court should grant a writ of certiorari, correct this error, and provide guidance for a situation likely to recur and to continue to weaken the Fourth Amendment absent action by this Court.

LIST OF PARTIES

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:

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RELATED CASES

1. *United States v. Barron*, 1:21-cr-00292-DCJ-JPM-1
2. *United States v. Barron*, 2024 U.S. App. LEXIS 633692, 2024 WL 1132844 (5th Cir. Mar. 15, 2024)

TABLE OF CONTENTS

QUESTION PRESENTED	i
LIST OF PARTIES.....	ii
RELATED CASES	ii
TABLE OF CONTENTS	iii
TABLE OF AUTHORITIES CITED	iv
OPINIONS BELOW.....	1
JURISDICTION.....	2
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	3
STATEMENT OF THE CASE	4
REASONS FOR GRANTING THE WRIT.....	11
CONCLUSION.....	16

INDEX TO APPENDICES

APPENDIX A	Oral reasons denying motion to suppress, <i>United States v. Barron</i> , 1:21-cr-00292-DCJ-JPM-1 (W.D. La. Dec. 12, 2022)
APPENDIX B	Decision of the United States Fifth Circuit Court of Appeals, <i>United States v. Barron</i> , 2024 U.S. App. LEXIS 633692, 2024 WL 1132844 (5th Cir. Mar. 15, 2024)

TABLE OF AUTHORITIES CITED

	PAGE NUMBER
CASES	
<i>Griffin v. Wisconsin</i> , 483 U.S. 868, 107 S. Ct. 3164, 97 L. Ed. 2d 709 (1987)	11
<i>State v. Bolden</i> , 09-33 (La. App. 5th Cir. 5/12/09), 13 So. 3d 1168	12-14
<i>State v. Malone</i> , 403 So. 2d 1234 (La. 1981)	12-13
<i>State v. Odom</i> , 34,054 (La. App. 2d Cir. 11/1/00), 772 So. 2d 281	12-13
<i>State v. Perry</i> , 39,644 (La. App. 2d Cir. 4/13/05), 900 So. 2d 313	12
<i>State v. Robertson</i> , 06-167 (La. App. 3d Cir. 7/16/08), 988 So. 2d 294	14
<i>State v. Saulsby</i> , 04-880 (La. App. 5th Cir. 12/28/04), 892 So. 2d 655.	13-14
<i>State v. Shields</i> , 614 So. 2d 1279 (La. App. 2d Cir. 1993), <i>writ denied</i> , 620 So. 2d 874 (La. 1993)	13
<i>State v. Spriggs</i> , 18-651 (La. App. 5th Cir. 4/24/2019), 271 So. 3d 320	14
<i>State v. Tarrell</i> , 74 Wis. 2d 647, 247 N.W.2d 696 (Wis. 1976)	11
<i>State v. Young</i> , 07-988 (La. App. 5th Cir. 6/19/08), 988 So. 2d 759	13
<i>United States v. Barron</i> , 2024 U.S. App. LEXIS 633692, 2024 WL 1132844 (5th Cir. Mar. 15, 2024)	ii, 1
<i>United States v. Knights</i> , 534 U.S. 112, 122 S. Ct. 587, 151 L. Ed. 2d 497 (2001)	11-12, 15
<i>United States v. LeBlanc</i> , 490 F.3d 361 (5th Cir. 2007)	11-12

CONSTITUTIONAL PROVISIONS, STATUTES, AND RULES

18 U.S.C. § 3006(A)	i
28 U.S.C. § 1254(1).....	2
United States Constitution, Fourth Amendment.....	i, 3, 8, 11-12, 15-16

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 Fifth Circuit Court of Appeals appears at Appendix B to the petition and is reported at *United States v. Barron*, 2024 U.S. App. LEXIS 633692, 2024 WL 1132844 (5th Cir. Mar. 15, 2024) .

The transcript of the oral reasons by the United States District Court for the Western District of Louisiana denying the motion to suppress appears at Appendix A and is unpublished.

JURISDICTION

The United States Court of Appeals decided the case on March 15, 2024. No petition for rehearing was filed timely in the case. The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

United States Constitution, Fourth Amendment:

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.

STATEMENT OF THE CASE

A. Relevant Facts

At the motion to suppress hearing, the Trial Court accepted the affidavit of RPSO Deputy Sergeant Stephen Cloessner as a defense exhibit. In detailing a methamphetamine distribution investigation of Mr. Barron that began in December 2020, Sgt. Cloessner swore he

received complaints about Jacob Wayne Barron selling large amounts of methamphetamine in Rapides Parish. During my investigation I learned Barron was arrested on March 16, 2019 by the Sulphur Police Department for transporting large amounts of methamphetamine into Louisiana from Texas. Barron was transporting the large amounts of methamphetamine to Rapides Parish when he was arrested for 2 lbs, 4 oz, 1 gram of methamphetamine. Agents performed surveillance on Barron and was unable to obtain enough probable cause to secure a search warrant for Barron's residence.

On Easter of 2021 I, Sgt. Cloessner was contacted by a Reliable Confidential Informant, here after an will be referred to as RCI. The RCI advised he had been at 124 Mudge Road the residence of Jacob Barron approximately a week earlier. The RCI advised he had observed what he believed to be a pound of methamphetamine at the residence. The RCI advised Barron did not sell small amounts of methphetamines. The RCI advised Barron normally would only sale at the minimum a pound. The RCI advised Barron was getting the methamphetamine from Texas still. The RCI advised he did not travel Interstate 10 since he had been arrested on it. The RCI attempted to contact Barron to purchase methamphetamine but Barron would not come through with the deal. After several attempts with to make controlled buys from Barron the RCI was unable to purchase. The RCI advised it was due to the small amount of methamphetamine that was requested. The RCI advised Barron was unemployed. The RCI advised

Barron normally has large amounts of cash in his possession. The RCI advised Barron hides his methamphetamine in the residence.

During my investigation I learned Barron was on Probation for his arrest by the Sulphur Police Department on March 16, 2019. I contacted Louisiana State Probation Agent Datha Bustard to confirm Barron was on Probation. Agent Bustard advised Barron was currently on Probation and his supervising Agent was Jeremy Underwood. I advised Agent Bustard I had received several complainants about Barron selling large amounts of methamphetamine. Agent Bustard advised they would conduct a home inspection of Barron at his listed residence at 124 Mudge Road. A week later on June 17, 2021 I, Sgt Cloessner was contacted by Agents Bustard, Susan Foneville and Jeremy Underwood who were currently performing a home inspection on Barron's residence. Agent Bustard advised they had located a large sum of US Currency. Agent Bustard requested assistance with their home inspection. Due to the RCI's information I contacted Cpl. John Deville and Sgt. Steve Orr to assist with the search due to they are K9 handlers. Upon my arrival with, Sgt. Orr, Cpl. Deville, Agents Saucier and Daenen. Agent Bustard advised they had located a suspected marijuana grinder.

ROA. 228-29.

Agent Bustard testified, at the motion to suppress hearing, that Mr. Barron's probation “[c]ondition 13 states that he agrees to searches of his person, his property, his place of residence, his vehicle, or his personal effects, or any of all of them at any time; that the probation or parole officer assigned to him or by any probation or parole officer who is subsequently assigned or directed by the Department of Public Safety and Corrections to supervise the person with the assignment or directive as temporary or permanent, with or without a warrant of

arrest, or with or without a search warrant when the probation officer or the parole officer has reasonable suspicion to believe that the person who is on probation is engaged in or has been engaged in criminal activity.” ROA. 155; *accord* 88-89, 156.

Agent Bustard testified that after speaking with Sgt. Cloessner, Mr. Barron’s probation officers had reasonable suspicion he was distributing methamphetamine. ROA. 157-59. Specifically, Agent Bustard was informed Mr. Barron allegedly was selling 1-pound quantities of methamphetamine from his residence. ROA. 168. Mr. Barron’s probation and parole officers were not told what the source of this information was. ROA. 168.

Based on this information, Mr. Barron’s probation officers conducted a compliance/reasonable suspicion check of Mr. Barron’s home and car. R. 158-59, 161. This compliance check was conducted by four probation officers. ROA. 159. When they arrived at Mr. Barron’s home, Mr. Barron and two juveniles were present. ROA. 159.

Two probation officers secured Mr. Barron and the juveniles. ROA. 161. Two probation officers searched Mr. Barron’s bedroom. ROA. 161. During the search of Mr. Barron’s bedroom, an empty gun box, an empty holster, and several boxes of “high-end” sneakers, which Agent Bustard found indicative of drug trafficking, were recovered. ROA. 162-63. Mr. Barron was detained for officer safety after the gun box and gun holster were found. ROA. 163.

Agent Bustard also testified that “a pill bottle that had pills of various shapes and sizes, a marijuana grinder, and various amounts of cash that were all either in

the nightstand or under the nightstand[]” were recovered. ROA. 163. \$1,200 was recovered from Mr. Barron’s car. ROA. 164.

Agent Bustard was not aware of any compliance issues by Mr. Barron before Sgt. Cloessner contacted Mr. Barron’s probation officers. ROA. 165.

Agent Bustard testified that, before Mr. Barron’s probation officers invited RPSO Deputies into Mr. Barron’s home, “[w]e had found violations on his probation, and we needed their assistance to continue searching.” ROA. 164, 166, 168-69. Mr. Barron’s probation and parole officer contacted the very RPSO Deputies who had informed them of Mr. Barron’s alleged criminal conduct that was part of an ongoing RPSO narcotics investigation. ROA. 166.

After the RPSO Deputies arrived, “almost 9 pounds of methamphetamines, in excess of \$90,000, and two firearms[]” were recovered. ROA. 169-70. This is the contraband charged in Mr. Barron’s indictment.

The District Court found

Louisiana law permits Louisiana Probation and Parole officers to search the persons and residences of parolees based upon a reasonable suspicion.

In this case, the defendant, Jacob Barron, was on supervised release -- supervised probation for a November 3rd, 2020 state court conviction in Calcasieu Parish for possession with intent to distribute methamphetamine. As a condition of his supervised release, the defendant, Jacob Barron, agreed to searches by Probation and Parole of his person, property, and place of residence as described in Government Exhibit Number 1. Therefore, as a preliminary matter, Probation and Parole was authorized to conduct searches of the defendant’s home upon reasonable suspicion.

Here, under the totality of the circumstances, the Court finds that the search of the defendant and his residence was supported by reasonable suspicion and not merely a subterfuge for police investigation because the probation officer had received information from the Rapides Parish Sheriff's Office that Jacob Barron was again engaged in drug activity. Specifically, the Probation Office was informed by the Rapides Parish Sheriff's Office that Baron was believed to have a pound of methamphetamine at his residence in Boyce, Louisiana. Probation was also aware independently that Baron was not employed.

Important here, the Rapides Parish sheriff's deputy that provided this information, Deputy Stephen Cloessner, had been a reliable source of information to Probation previously, as testified by Probation Officer Bustard. Officer Bustard, having received this information which she deemed to be reliable, the Court finds that that information, in addition to Baron's lack of employment, constitute a reasonable suspicion for the Probation Office to conduct the search and, indeed, was consistent with that agency's duty to supervise Mr. Barron.

Further, given that the probation officer assigned to Mr. Barron initiated the search and was present at the search; the Probation Office conducted the initial search independent of the Rapides Parish Sheriff's Office; the Probation Office was not asked or directed by the Rapides Parish Sheriff's Office or any other agency to conduct the search; the information the Probation Office received was for the same criminal conduct for which Baron was under supervision with their office; and that the scope of the search was consistent with information provided by and with the terms of his probation agreement, the Court accordingly finds that the search was authorized by Louisiana law and does not violate the Fourth Amendment under the precedent set forth by the United States Supreme Court in *United States v. Nights*, 122

S. Ct. 587. Accordingly, the defendant's motion to suppress, Document 38, is denied.

ROA. 179-81.

B. Action before the District Court

On November 18, 2021, Mr. Barron was indicted in a 3-count indictment. ROA. 3, 12-14. He was charged with Possession with Intent to Distribute Controlled Substances (methamphetamine), Possession of a Firearm by a Prohibited Person, and Possession of a Firearm in Furtherance of a Drug Trafficking Crime. ROA. 12-14. Mr. Barron entered pleas of not guilty on December 7, 2021. ROA. 4.

On November 8, 2022, Mr. Barron filed a motion to suppress the alleged contraband, including methamphetamine and firearms, recovered after a warrantless search of his home. ROA. 6-7, 58-69. On November 28, 2022, the Government filed an opposition to Mr. Barron's motion. ROA. 7, 77-89.

On December 12, 2022, the Trial Court held a hearing on Mr. Barron's motion to suppress. ROA. 8, 133-82. After the hearing, the Trial Court denied Mr. Barron's motion to suppress. ROA. 12, 179-81.

On December 20, 2022, Mr. Barron entered a conditional guilty plea to Counts 1 and 2, specifically reserving Mr. Barron's right to appeal the denial of his motion to suppress. ROA. 8, 183-205, esp. 185, 196-97.

On March 20, 2023, the District Court sentenced Mr. Barron to 192 months of imprisonment as to Count 1 and to 120 months of imprisonment as to Count 2, to

be served concurrently. ROA. 9-10, 122-27, 206-23, esp. 218. On March 21, 2023, Mr. Barron filed a timely notice of appeal. ROA. 9, 119-20.

On March 15, 2024, the United States Fifth Circuit Court of Appeals affirmed Mr. Barron's conviction and sentence. This timely petition follows.

REASONS FOR GRANTING THE PETITION

The alleged contraband at issue in this matter was recovered by RPSO Deputies after Mr. Barron's probation officers had completed a compliance check that revealed alleged violations of Mr. Barron's probation. ROA. 67-68. That is, the purpose that allowed Mr. Barron's probation officers to enter his house without a warrant ended before the warrantless search by the RPSO.

In *United States v. Knights*, 534 U.S. 112, 122, 122 S. Ct. 587, 593, 151 L. Ed. 2d 497, 507 (2001), this Court held “the warrantless search of Knights, supported by reasonable suspicion and authorized by a condition of probation, was reasonable within the meaning of the Fourth Amendment.” Following *Knights*, the United States Fifth Circuit Court of Appeals recognized that “reasonable restrictions upon liberty and privacy are allowed and are necessary ‘to assure that the probation serves as a period of genuine rehabilitation and that the community is not harmed by the probationer’s being at large.’ *Griffin*, 483 U.S. at 875 (citing *State v. Tarrell*, 74 Wis. 2d 647, 247 N.W.2d 696, 700 (Wis. 1976)). ‘These same goals require and justify the exercise of supervision to assure that the restrictions are in fact observed.... Supervision, then, is a ‘special need’ of the State permitting a degree of impingement upon privacy that would not be constitutional if applied to the public at large.’ *Id.*” *United States v. LeBlanc*, 490 F.3d 361, 365-66 (5th Cir. 2007).

In this matter, Mr. Barron's probation officers discovered alleged violations of Mr. Barron's probation before the RPSO search. There was no reason to justify the decision of Mr. Barron's probation officer's to invite the RPSO Deputies into Mr.

Barron's home to conduct a warrantless search in support of an ongoing criminal investigation into alleged methamphetamine distribution by Mr. Barron after the purpose of the probation compliance check had been accomplished.

Indeed, the *LeBlanc* court cautioned that, “[b]ecause the permissible degree of a state’s impingement on probationers’ privacy is not unlimited, we must determine, first, whether Louisiana’s rules and regulations for furthering these goals are reasonably necessary and therefore constitutional, and, second, whether Officer Cruice exceeded the authority granted him under these applicable state standards.” 490 F.3d at 366; *accord State v. Perry*, 39,644, at p. 8 (La. App. 2d Cir. 4/13/05), 900 So. 2d 313, 318 (“The parole officer must believe that the search is necessary in the performance of his duties and reasonable in light of the total circumstances. *State v. Odom*, 34,054 (La. App. 2d Cir. 11/01/00), 772 So. 2d 281.”).

Under *Knights*, Mr. Barron’s probation officers had the right and the duty to search his home to ensure his compliance with the terms of his probation. They did so and had completed their mission before inviting the RPSO Deputies to engage in a warrantless search of Mr. Barron’s home in furtherance of an ongoing RPSO investigation into alleged methamphetamine distribution by Mr. Barron.

In *State v. Bolden*, 09-33, at pp. 4-5 (La. App. 5th Cir. 5/12/09), 13 So. 3d 1168, 1171, the Louisiana Fourth Circuit noted that “[a] probation officer may not use his authority as a subterfuge to help another police agency that desires to conduct a search, but lacks probable cause. *State v. Malone*, 403 So.2d 1234, 1238 (La. 1981). The parole or probation officer must believe that the search is necessary

in the performance of his duties and reasonable in light of the total circumstances.

State v. Saulsby, 892 So.2d at 658. In determining whether a warrantless search by a probation or parole officer was reasonable, the court must consider: (1) the scope of the particular intrusion, (2) the manner in which it was conducted, (3) the justification for initiating it, and (4) the place in which it was conducted. *State v. Malone*, 403 So.2d at 1239; *State v. Young*, 988 So.2d at 763-764. Although the State still bears the burden of proving the admissibility of evidence seized without a warrant, when the search is conducted for probation violations, the State's burden will be met when it establishes that there was reasonable suspicion that criminal activity was occurring. *State v. Saulsby*, 892 So.2d at 658.”

The *Bolden* court recognized that, “[i]n *State v. Shields*, 614 So. 2d 1279, 1284 (La. App. 2 Cir. 1993), *writ denied*, 620 So. 2d 874 (La. 1993), the appellate court found that the search for a probation violation was not a subterfuge for a criminal investigation where there was no ongoing investigation of the defendant at the time the informant reported a possible probation violation and the search of the residence was conducted by probation officers only. Likewise, in *State v. Odom*, 34,054 (La. App. 2 Cir. 11/1/00), 772 So.2d 281, the court found that the search conducted by the probation officer was not a subterfuge to help the narcotics department conduct a search without the necessary probable cause. In that case, the appellate court noted that there was no evidence of an ongoing investigation of defendant at the time the probation officer was notified of his illegal activity, and the search was conducted by the two probation officers.” *Bolden*, 09-33, at pp. 7-8,

13 So. 3d at 1173; *accord State v. Spriggs*, 18-651, at p. 9 (La. App. 5th Cir. 4/24/2019), 271 So. 3d 320, 327 (“The sheriff’s office was not investigating the defendant, and no one from the investigating agency in New Orleans participated in the visit or the search that followed. This case is factually distinguishable from cases in which a purported compliance check was found to be a subterfuge for a criminal investigation, such as *State v. Saulsby*, 04-880 (La. App. 5 Cir. 12/28/04), 892 So.2d 655.”); *State v. Robertson*, 06-167, at p. 17 (La. App. 3d Cir. 07/16/08), 988 So. 2d 294, 305-306 (“Finally, there is no indication the search was a subterfuge for a criminal investigation. Officer Gralap, acting on his own suspicions regarding possible probation violations, decided to visit Defendant’s residence. He initiated the contact with Detective Durham and asked for assistance. There was no evidence indicating there was an ongoing investigation at the time of the search.”).

Mr. Barron’s probation officers invited the RPSO Deputies to engage in a warrantless search in furtherance of an ongoing investigation into claims Mr. Barron allegedly was engaged in methamphetamine distribution. The search that recovered the alleged contraband involved in this case was conducted by RPSO Deputies after Mr. Barron had been detained and after Mr. Barron’s probation officers found evidence that Mr. Barron allegedly violated the terms of his probation. That is, the RPSO search occurred after the purpose of the search by Mr. Barron’s probation officers had been achieved. There simply was no purpose valid under Louisiana probation law to justify the warrantless RPSO search.

Therefore, even under *Knights*, the District Court erred when it denied Mr. Barron's motion to suppress. Accordingly, Mr. Barron respectfully submits the Fifth Circuit erred in affirming the denial of his motion to suppress.

To address this violation of the Fourth Amendment, this Court should grant this writ, should reverse the District Court's decision to deny Mr. Barron's motion to suppress, should grant Mr. Barron's motion to suppress, and should remand this matter to the District Court for further proceedings consistent with this Court's ruling.

CONCLUSION

The petition for a writ of certiorari should be granted. To address this violation of the Fourth Amendment, Mr. Barron's motion to suppress should be granted, and this matter should be remanded to the District Court for further proceedings consistent with this Court's ruling.

Respectfully submitted,
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