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SUPREME COURT, U.S.

No. 24 - 5771

Supreme Court of The United States

Kyle Zoellner

v.

City of Arcata, et al.

On Petition For Writ of Certiorari to The United States Court of Appeals Ninth Circuit

Petition for a Writ of Certiorari

Kyle Zoellner

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Key Constitutional and Legal Questions

1. Fourth Amendment Violation – Lack of Probable Cause at Arrest

- Whether the Ninth Circuit erred in affirming the district court's judgment that there was probable cause to arrest the petitioner, despite the preliminary hearing judge's earlier determination that there was no probable cause.

2. Post-Arrest Evidence and *Beck v. Ohio*

- Whether the Ninth Circuit improperly relied on post-arrest evidence, such as the petitioner's profession as a chef and the discovery of a knife at the crime scene, to affirm the existence of probable cause. This contradicts the constitutional standard set forth in *Beck v. Ohio*, which prohibits using evidence obtained after an arrest to retroactively justify the arrest.

3. Fourth Amendment Violation – *Franks v. Delaware* and Falsified Evidence

- Whether the petitioner's Fourth Amendment rights were violated when Detective Dokweiler included falsified or misleading statements in his probable cause affidavit, specifically regarding witness identification. Under *Franks v. Delaware*, the use of false or reckless statements to secure probable cause is unconstitutional.

4. Failure to Conduct a Proper Investigation

- Whether the failure of the Arcata Police Department to conduct a proper investigation and secure the crime scene, as found by the National Police Foundation, constitutes a violation of the petitioner's due process rights under the Fourteenth Amendment. This failure could have prevented the discovery of

exculpatory evidence and thus undermined the fairness of the criminal investigation.

5. Sixth Amendment Violation – Misidentification and the Right to Face Accusers

- Whether the petitioner’s right under the Sixth Amendment to confront witnesses against him was violated by relying on hearsay or unverified statements from unidentified witnesses, who allegedly identified the petitioner as the “stabber,” without the petitioner being given the opportunity to challenge these accusations.

6. Use of Blood Evidence and the Assumption of Guilt

- Whether the assumption that the blood on the petitioner’s clothes was the victim’s, despite the majority of it being the petitioner’s own, constitutes an unreasonable assumption that violates the petitioner’s Fourth Amendment rights. The inference that blood evidence automatically implied guilt, despite other factors like severe injuries sustained by the petitioner, undermines the requirement for objective evidence in determining probable cause.

List of All Parties to the Proceeding

1. **Petitioner:** Kyle Zoellner Plaintiff-Appellant
2. **Respondent:** CITY OF ARCATA; et al., Defendants-Appellees.
3. **Lower Courts:**
 - Superior Court of California Humboldt County
 - District Court for the Northern District of California
 - U.S. Court of Appeals for the Ninth Circuit

List of All Proceedings Directly Related to the Case

1. Preliminary Hearing

- **Court:** California Superior Court, Humboldt County
- **Docket Number:** CR1701730
- **Case Caption:** *State of California v. Kyle Zoellner*
- **Judgment Date:** 5/5/2017

2. Proceedings in Federal District Court

- **Court:** United States District Court for the Northern District of California
- **Docket Number:** 383
- **Case Caption:** *Kyle Zoellner v. City of Arcata, et al.*
- **Judgment Date:** 10/17/2022

3. Appeal in the Ninth Circuit Court of Appeals

- **Court:** U.S. Court of Appeals for the Ninth Circuit
- **Docket Number:** 433
- **Case Caption:** *Kyle Zoellner v. City of Arcata, et al.*
- **Judgment Date:** 6/25/2024

4. Petition for Writ of Certiorari in the U.S. Supreme Court (Pending)

- **Court:** U.S. Supreme Court
- **Docket Number:** (To be assigned upon filing)

- **Case Caption:** *Kyle Zoellner v. City of Arcata, et al.*
- **Filing Date:** (To be determined)

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C. District Court Jury Verdict

D. CA Superior Court Decision

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1. Superior Court of California Humboldt County Opinion

- *People of the State of California v. Kyle Christopher Zoellner., Case No. CR1701730,*
(Superior Court May 5, 2017)

2. Ninth Circuit Opinion:

- *Kyle Zoellner v. City of Arcata, et al.,* No. 23-15505, (9th Cir. June 25, 2024).

3. District Court Opinion:

- *Kyle Zoellner v. City of Arcata, et al.,* Case No. 3:18-cv-04471-JSC (N.D. Cal. 2022).

1. Superior Court of California Humboldt County Opinion

- *People of the State of California v. Kyle Christopher Zoellner., Case No. CR1701730,*
(Superior Court May 5, 2017)

2. Ninth Circuit Opinion (Unofficial Report):

- *Kyle Zoellner v. City of Arcata, et al.*, No. 23-15505, (9th Cir. June 25, 2024).

3. District Court Opinion (Unofficial Report):

- *Kyle Zoellner v. City of Arcata, et al.*, Case No. 3:18-cv-04471-JSC (N.D. Cal. 2022).

Statement of Jurisdiction

The judgment of the United States Court of Appeals for the Ninth Circuit was entered on 6/25/2024. A petition for rehearing was denied by the United States Court of Appeals for the Ninth Circuit on 6/25/2024. This Court has jurisdiction to review the judgment under 28 U.S.C. § 1254(1).

Constitutional Provisions Involved

1. Fourth Amendment to the United States Constitution:

- *"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."*

2. Sixth Amendment to the United States Constitution:

- *"In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence."*
- **Relevant to:** Your argument that no witnesses identified you as the "stabber" at the scene, and that you had the right to confront accusers.

3. Fourteenth Amendment to the United States Constitution (Due Process Clause):

- *"No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."*
- **Relevant to:** Your arguments about the lack of due process in the police investigation and how it affected your ability to receive a fair legal proceeding.

Statement of the Case

1. Background

In the early morning of April 16, 2017, I was at home playing World of Warcraft when I received a call from my then-girlfriend, Lila Ortega, asking me to pick her up from a house party. On my way there, I got another call from a different number; it was Lila again, explaining she had lost her phone. When I arrived at the house on Spear Avenue, I was greeted by Lila and a few of her friends—Casey Gleaton, Naiya, and Angelica McFarland. As I approached the front porch where two men stood, I politely said, “what’s up.” Suddenly, a third man came out of the house and sucker-punched me.

I was jumped by the three men, slammed against a vehicle, and knocked to the ground, where I hit my head and lost consciousness, as confirmed by the Castillo brothers and Renalyn Bobadilla. (Appendix M, N) Testimonies deviate from this point, but certain facts remain clear: I attempted to get back up and grab my keys, only to be assaulted again, this time by 10-15 people, according to Keaundrey Clark. (Appendix O) Lila, Naiya, and Quentin eventually stopped the attack and carried me away from the scene. During this chaos, Josiah Lawson was stabbed by an unknown person.

At this point, Officer Nilsen arrived and found me being supported by Lila and Naiya. He took me from them and led me, with an unsteady gait, to the back of his patrol car. As the police instructed people to leave the scene, many unidentified witnesses dispersed. One individual even approached Officer Nilsen, telling him that the suspect had fled in a certain direction, but Nilsen dismissed the tip, responding, “we already have the guy,” referring to me, who was in the back of his car. (Appendix Q - Timestamp 9:20-9:40)

I spent several hours in Nilsen's car, suffering from a concussion, as later confirmed by my doctor years after the incident. (Appendix K) I was arrested and taken to the hospital, where I was given only a cursory examination, with the results of my CT scan either ignored or missed. From there, I was transferred to the Arcata Police Department holding cell, where I received no further medical treatment, despite my concussion. I remained in that state for an extended period before being interviewed by Detective Dokweiler. During that interview, I never admitted to being in a physical altercation with anyone; I stated that I had been assaulted and beaten by unknown individuals. (Appendix F)

I spent the weekend in jail. At one point, Chapman, one of the officers involved, mentioned that they might have to release me because they didn't have enough evidence. However, suddenly, a report emerged claiming that I had been identified as the "stabber." This report supposedly came from Jason Martinez, yet when he testified, he stated that he neither saw a knife nor the person who committed the stabbing.

After a seven-day preliminary hearing, Judge Reinholtsen dismissed the charges without prejudice, concluding that there was insufficient evidence against me. (Appendix D) Two years later, a grand jury was convened to determine whether there was enough evidence to charge me. The grand jury ultimately decided there was not.

Following these events, I filed a lawsuit against the City of Arcata, which was heard in the Northern District Court of California before Judge Jacqueline Scott Corley. Although the jury found that Detective Losey had falsified records (Appendix C), Judge Corley ruled that there had been probable cause for my arrest. I appealed this decision to the Ninth Circuit Court of Appeals, which reaffirmed the lower court's ruling.

2. Procedural History

After my arrest, a preliminary hearing was held in Superior Court of California Humboldt County before Judge Reinholtsen, who dismissed the charges against me, finding a lack of probable cause. This decision is central to my Fourth Amendment claim, as it reinforces that the arrest violated my constitutional rights.

Following the dismissal, a grand jury was convened, which declined to indict me. Subsequently, I filed a lawsuit against the City of Arcata for the infringement on my rights. This lawsuit was presided over by Judge Jacqueline Scott Corley in the Northern District of California. Judge Corley determined there was probable cause for my arrest, while a jury found that Detective Losey had falsified records. I appealed the case to the Ninth Circuit Court of Appeals, which affirmed the lower court's decision and rejected my constitutional claims.

Judgment

The Ninth Circuit Court of Appeals issued its final judgment on 6/25/2024, upholding the lower court's decision. The court failed to properly address the violations of my Fourth, Sixth, and Fourteenth Amendment rights. I am now seeking review by this Court to address these unresolved federal constitutional issues, as these violations significantly impacted the fairness and outcome of my case.

Reasons for Granting the Writ

I. The Arrest Lacked Probable Cause at the Time It Was Made, in Violation of the Fourth Amendment

The arrest of the petitioner, Kyle Zoellner, was made without sufficient probable cause, as required under **Ohio v. Beck**, 379 U.S. 89 (1964), **Henry v. United States**, 361 U.S. 98 (1959), and **Wong Sun v. United States**, 371 U.S. 471 (1963). These cases establish that probable cause must exist at the time of arrest and cannot be retroactively justified by evidence found later.

1. **Ohio v. Beck** emphasized that probable cause must be based on facts known at the time of arrest. In this case, the police observed blood on Zoellner's clothing and, without further investigation, concluded that it was linked to the stabbing of the victim. The Supreme Court in **Beck** held that evidence discovered after an arrest cannot be used to retroactively justify the arrest if no probable cause existed initially.
2. **Henry v. United States** reiterated that arrests made based on less than probable cause violate the Fourth Amendment. In Zoellner's case, the presence of blood alone did not provide sufficient probable cause, especially given that Zoellner was also a victim of the assault and sustained injuries during the altercation.
3. **Wong Sun v. United States** and **Dunaway v. New York**, 442 U.S. 200 (1979) further clarify that probable cause must rely on specific facts, not assumptions or speculation. In Zoellner's case, the police failed to consider alternative explanations for the blood on his clothing, such as his injuries from being beaten by other individuals. This oversight

violates the principles set forth in these cases, as mere suspicion is insufficient for a lawful arrest.

4. In **Bailey v. United States, 568 U.S. 186 (2013)**, the Court held that proximity to a crime scene does not automatically justify an arrest, further supporting the argument that Zoellner's mere presence at the scene, combined with the blood on his clothes, did not amount to probable cause.

II. False Statements in the Affidavit Supporting the Arrest Warrant Violated the Petitioner's Rights Under *Franks v. Delaware*

The police relied on false statements and omissions in obtaining an arrest warrant, which violated the petitioner's constitutional rights under ***Franks v. Delaware, 438 U.S. 154 (1978)***. In ***Franks***, the Supreme Court held that an arrest warrant must be voided if it is based on false statements made knowingly or with reckless disregard for the truth, and if the false statements were necessary to the finding of probable cause.

1. Zoellner never admitted to being in a physical fight with the victim, and the assertion that his clothing was "covered in the victim's blood" without proper forensic testing misrepresented the facts. These falsehoods were material to the finding of probable cause and thus violate ***Franks***.
2. ***United States v. Leon, 468 U.S. 897 (1984)*** and ***Aguilar v. Texas, 378 U.S. 108 (1964)*** further support the principle that warrants must be based on truthful and reliable information. The good-faith exception does not apply here, as the police acted with

reckless disregard for the truth by not adequately investigating the source of the blood or considering Zoellner's injuries.

3. **Illinois v. Gates, 462 U.S. 213 (1983)** and **United States v. Arvizu, 534 U.S. 266 (2002)** reinforce that probable cause must be based on the "totality of the circumstances." The police failed to consider exculpatory evidence (such as Zoellner's injuries and the chaotic scene) and instead selectively focused on incriminating factors.
4. In **United States v. Colkley, 899 F.2d 297 (4th Cir. 1990)** and **Herring v. United States, 555 U.S. 135 (2009)**, the courts stressed that material omissions in warrant affidavits undermine the entire legal basis for an arrest. The omissions regarding Zoellner's own injuries were essential to determining whether probable cause existed.

III. The Right to Confront Witnesses and Accusers Under the Sixth Amendment Was Violated

The petitioner's Sixth Amendment right to confront his accusers, as established in **Crawford v. Washington, 541 U.S. 36 (2004)** and **Pointer v. Texas, 380 U.S. 400 (1965)**, was violated. The right to face accusers is fundamental to ensuring a fair trial.

1. In **Crawford**, the Court held that testimonial evidence cannot be admitted unless the defendant has had an opportunity to cross-examine the witness. Zoellner's arrest and subsequent proceedings were based in part on witness statements that were not subject to cross-examination, undermining his right to confront his accusers.

2. **Pointer v. Texas** similarly held that the right to cross-examine witnesses is essential to a fair trial. If the prosecution relied on statements from individuals who were not available for cross-examination, Zoellner's Sixth Amendment rights were violated.

IV. The Failure to Conduct a Proper Investigation Violated Due Process Under *Brady v. Maryland*

The failure of the police to conduct a thorough investigation, particularly by not distinguishing between the blood from the petitioner's injuries and that of the victim, constitutes a violation of due process under ***Brady v. Maryland*, 373 U.S. 83 (1963)**.

1. In ***Brady***, the Supreme Court ruled that the prosecution's failure to disclose exculpatory evidence violates due process. The police's failure to properly investigate the source of the blood on Zoellner's clothes deprived him of potentially exculpatory evidence.
2. ***Kyles v. Whitley*, 514 U.S. 419 (1995)** reinforced that law enforcement has a duty to conduct a thorough investigation and to disclose evidence that may exonerate the defendant. The police's oversight in determining whose blood was on Zoellner's clothes exemplifies a failure to meet this duty.
3. ***Devereaux v. Abbey*, 263 F.3d 1070 (9th Cir. 2001)** further holds that failure to investigate thoroughly can lead to wrongful conviction. In Zoellner's case, the lack of proper forensic investigation regarding the blood evidence suggests a failure to conduct a proper investigation, which could have revealed exculpatory information.

V. Probable Cause Based Solely on Blood Presence Without Context Violates Fourth Amendment Principles

Under **Ybarra v. Illinois**, 444 U.S. 85 (1979), **Sibron v. New York**, 392 U.S. 40 (1968), and **Brown v. Texas**, 443 U.S. 47 (1979), the presence of blood on Zoellner's clothing alone is insufficient to establish probable cause for arrest.

1. In **Ybarra**, the Court ruled that mere presence at the scene of a crime does not establish probable cause. Similarly, Zoellner's presence at the party and the blood on his clothes, without further investigation, did not provide a reasonable basis for his arrest.
2. **Sibron** and **Brown** emphasize that probable cause cannot be based on association with criminal activity or mere presence in a high-crime area. The police needed specific evidence linking Zoellner to the crime, which they failed to obtain.
3. **United States v. Di Re**, 332 U.S. 581 (1948) supports the notion that proximity to a crime is not enough for an arrest. The assumption that the blood on Zoellner's clothing was from the victim, rather than from his own injuries, shows a failure to establish the necessary connection to the crime.

Conclusion

For the foregoing reasons, I, Mr. Zoellner respectfully request that this court issue a writ of certiorari to review the judgement of the Ninth Circuit Court of Appeals.