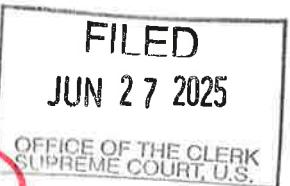


SUPREME COURT OF THE UNITED STATES

ORIGINAL

Pro se, §  
Michael James Carson, §  
Petitioner §  
v §  
Eric Guerrero, TDCJ Director, §  
Respondent §

Case No. 24-6929



PETITION FOR REHEARING

TO THE HONORABLE JUDGES OF THE SUPREME COURT:

Comes now, Michael James Carson, Petitioner, in the above entitled name Pro se, and numbered cause, respectfully submits the petition for rehearing pursuant to Supreme Court Rule 44 ( Rehearing ) and requests that this court reconsider its opinion of petitioner's writ of certiorari that was denied on the 6th. day of June, 2025, and acquit, reverse or remand this cause for a new trial.

I. POINT OF ERROR

The Supreme Court erred and overlooked the Supreme Courts controlling precedent in which were held in the following Courts own laws and rulings that pertained to Petitioner's circumstances. In Thompson v Keohane, 516 U.S. 99 ( No. 94-6615 ) On Certiorari, The Supreme Court reversed, ruling that the presumption of correctness did not apply to a custody determination because that issue was not a question of fact, but was a mixed question of law and facts, requiring an independent review by the federal court. Although the historical fact determination were factual and entitled to the 2254 (d) presumption, the ultimate

objective inquiry of whether there was a formal arrest or restraint of movement similar to arrest was a legal matter for independent federal determination. Petitioner asserts that this Court has erroneously overlooked to acknowledge and constitutionally apply this ruling, law and statute in such said ruling pursuant to Thompson v Keohane to Petitioner's surrounding circumstances of his custodial interrogation determination by neglecting to acknowledge this mixed question of law and facts surrounding his interrogation, questions included extending beyond the determination of what actually happened. Basic, primary and historical facts are the factual issues to which the statutory presumption of correctness dominately relates to. Petitioner had argued and expressed in his writ of certiorari that there was a formal arrest, ( Backseat Passenger, Parole Violation ) in which in fact this formal arrest of the parole violation had curtailed a restraint of movement of the Petitioner to the degree associated with this formal arrest in which this restraint of movement of Petitioner, tainted Petitioner's confession in which had been obtained by exploitation of an illegal search and seizure in which this illegal search and seizure contributed to Petitioner's incriminating statements and his illegal arrest. Petitioner asserts that this Court has erroneously overlooked and failed to examine these surrounding historical facts of this formal arrest in which is contrary to the Supreme Court controlling precedent found in Chimel v California, 395 U.S. 752 ( No. 770 ) The courts opinion in Chimel emphasized the principle that, as the court had said in Terry v Ohio, 392 U.S. 1, 19 - the scope of a search [ must ] be strictly tied to and justified by the circumstances which rendered its initiation permissible. see Chimel, 395 U.S. at 762. Specifically, the Court held that a lawful custodial arrest creates a situation which justifies the contemporaneous search without a warrant of the [ person arrested ] and of his immediately [ surrounding area ]. The Court has also held that a search-incident-to-arrest [ may not ] stray beyond the area within the immediate control of the arrestee, that area arguably

includes the [ interior ] of an automobile and the [ arrestee ] is its recent occupant. ( Chimel's underlying policy justifications ) Petitioner asserts that this Court has erroneously overlooked and failed to acknowledge and constitutionally apply this ruling of law found in Chimel v California to Petitioner's surrounding circumstances of the historical facts of his custodial interrogation in which the arresting officer had no probable cause under the Fourth Amendment of the United States Constitution to open Petitioner's [ trunk ] without first obtaining a warrant or consent to do such. The arresting officer was only permitted to search the interior of the vehicle, the immediate surrounding area of the arrestee. Petitioner asserts that this mixed question of law and facts were overlooked and that this doctrine of stare decisis is of course essential to the respect accorded to the judgment of the Court and the stability of the law. Petitioner asserts that the arresting officer violated Petitioner's Fourth and Fourteenth Amendment right by illegally detaining Petitioner to search the trunk without a warrant in which this restraint of movement of Petitioner tainted his confession in which had been obtained by exploitation of an illegal search and seizure and his illegal arrest. Petitioner's incriminating statements were the product of an illegal search and seizure and this court overlooked this mixed question of law and facts. see Dunaway v New York, 442 U.S. 200 ( No.78-5066 )

Furthermore, Petitioner asserts that this Court has erroneously overlooked and failed to examine these surrounding historical facts of this formal arrest in which is contrary to the Supreme Courts controlling precedents found in Arizona v Gant, 556 U.S. 332 ( No. 07-542 ) in which Certiorari was granted based on the search-incident-to-arrest exception. This court has held in Gant -- Police could not reasonably have believed that evidence of the " offense of arrest" for which respondent was arrested might have been found in the car since he was arrested for driving with a suspended license, an offense for which police could not expect to find evidence in the passenger compartment of his car, moreless

the trunk. Id at 335. Police may search a vehicle incident to a recent occupant's arrest [ only ] if the arrestee is within reaching distance of the passenger compartment at the time of the search, or it is reasonable to believe the vehicle contains evidence of the " offense of arrest ". When the justifications are absent, a search of an arrestee's vehicle will be unreasonable unless police obtain a warrant. Id at 351. Searches conducted outside the judicial process, without prior approval by judge or magistrate, are per se unreasonable under the Fourth and Fourteenth Amendment of the Constitution. Petitioner asserts that this Court has erroneously overlooked and failed to acknowledge and constitutionally apply this ruling of law found in Arizona v Gant to Petitioner's surrounding circumstances of the historical facts of his custodial interrogation in which the arresting officer had no probable cause under the Fourth Amend. of the United States Constitution to open Petitioner's trunk without first obtaining a warrant or consent to do such. The arresting officer could [ not ] reasonably have believed that evidence of the " offense of arrest " for which the backseat passenger was arrested for a ( Parole Violation ) an offense of arrest for which police could not expect to find evidence of " Parole Violation " in the compartment of his car, moreless the trunk. Petitioner asserts that with respect to the above mentioned ruling of Chimel's reaching distance, the arresting officer still was not permitted to open the trunk and search Petitioner's individualized effects without a warrant or consent. Petitioner asserts that both of these rulings and laws pursuant to Gant and Chimel violated Petitioner's Fourth and Fourteenth Amendment right by illegally detaining Petitioner to search the trunk without a warrant in which this restraint of movement of Petitioner tainted his confession in which had been obtained by exploitation of an illegal search and seizure and his illegal arrest. Petitioner's incriminating statements were the product of an illegal search and seizure and this court overlooked this mixed question of law and facts.

Andmoreover, Petitioner asserts that this Court has erroneously overlooked and failed to examine these surrounding historical facts of this formal arrest in which is also contrary to the United States District Court for the Eastern District of North Carolina, Western Division controlling precedent found in United States v Abusnena, 2021 U.S. Dist.LEXIS 51605 ( No. 5:20-cr-00301-M-1 ) This court granted defendant's motion to suppress evidence seized from his vehicle on the night of his arrest because the police officer's were justified in searching the passenger compartment of defendant's vehicle and any container's therein for evidence that defendant had discharged a firearm as a reasonable search-incident-to-defendant's-arrest on suspicion of having done so, [ however ] police officer's [ were not ] justified in searching the trunk of the vehicle since a warrant was required for its search. quoted Arizona v Gant, 556 U.S. 332 ( No. 07-542 ) Gant provides that a lawful arrest of a recent occupant of a vehicle can supply a basis for searching the passenger compartment of an arrestee's vehicle and any containers therein. Id at 344 ( emphasis added ). Gant does not say that such an arrest provides a justification for a warrantless search of the [ trunk ] of an arrestee's vehicle, and the court concluded based upon the evidence presented that the officer were not otherwise justified in searching defendant's trunk without first obtaining a search warrant. Because the officer's searched the trunk before obtaining a warrant, any evidence found within the trunk of defendant's vehicle must be suppressed. see Abusnena, at 19-20. Petitioner asserts that this Court has erroneously overlooked and failed to acknowledge and constitutionally apply this ruling of law found in United States v Abusnena quoting Arizona v Gant to Petitioner's surrounding circumstances of the historical facts of his custodial interrogation in which the arresting officer had no probable cause under the Fourth and Fourteenth Amend. to open Petitioner's trunk without first obtaining a warrant or consent to do such. Petitioner asserts that this mixed question of law and facts were overlooked

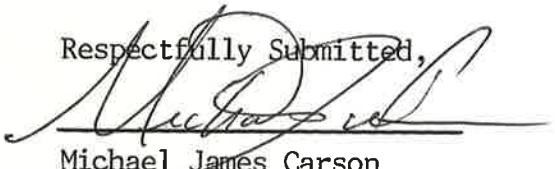
and that this doctrine of stare decisis is of course essential to the respect accorded to the judgment of the court and the stability of the law. Petitioner asserts that the arresting officer violated Petitioner's Fourth and Fourteenth Amend. right by illegally detaining Petitioner to search the trunk without a warrant in which this restraint of movement of Petitioner tainted his confession of the incriminating statements in which had been obtained by exploitation of an illegal search and seizure and his illegal arrest. Petitioner's incriminating statements were the product of an illegal search and seizure and this court overlooked this mixed question of law and facts. see Dunaway v New York, 442 U.S 200 ( No. 76-5066 ) in which this court granted certiorari from the Appellate Division, Supreme Court of New York, Fourth Judicial Department for clarifying the Fourth Amendment requirement as to the permissible grounds for custodial interrogation. The Court reversed the lower court's judgment that convicted defendant of murder because the police violated the Fourth and Fourteenth Amend. by illegally detaining petitioner for interrogation without probable cause. Custodial questioning on less than probable cause for arrest, held violative of Fourth Amend. link between improper police misconduct and evidence obtained as result, held insufficient attenuated to permit use of evidence. Petitioner asserts that these points of error above clearly and concisely demonstrate that Petitioner's surrounding circumstances are equivalent to those presented herein. Petitioner also ask this court to take " Judicial Notice of Adjudicative facts " pursuant to Federal Rules of Evidence, Rule 201 in which is in support of these points of error thereto and ask this court to apply those adjudicative facts to Petitioner's surrounding circumstances. Petitioner request that after this court has taken judicial notice of the facts and after applying those historical facts to these points of error to reconsider there judgment and either acquit, reverse or remand this cause for a new trial.

CERTIFICATE OF SERVICE

This is to certify that a copy of the above documents has this day been delivered by regular mail, prepaid in the United States Mail Postage, on this the 30th day of June, 2025, addressed to:

Lori Brodbeck  
Assistant Attorney General  
Criminal Appeals Division  
P.O. Box 12548  
Austin, Tx 78711-2548

Respectfully Submitted,

  
Michael James Carson

TDCJ No.02250040

Polunsky Unit

3872 FM 350 South

Livingston, Tx 77351

**Additional material  
from this filing is  
available in the  
Clerk's Office.**