No. 24-7178

In The

Supreme Court of The United States

Douglas Turner - Petitioner

vs.

United States of America - Respondent

On Petition For A Writ of Certiorari

To the 8th Circuit Court of Appeals

PETITION FOR WRIT OF CERTIORARI

Douglas Turner

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While incarcerated on another offense, Turner was subjected to unrecorded interrogation deliberately conducted in a way to avoid the dictates of "Miranda v. Arizona," 384 US 436 (1967). In deciding against excluding the alleged confession resulting, the District Court used "Howes v. Fields," 565 US 499 (2012) to weigh the facts of incarceration mitigating against finding Turner "in custody" for "Miranda" purposes.

Questions Presented

I. After "Howes v. Fields," are Courts to treat interrogation of an incarcerated person as fundamentally equivalent to (or less serious) than interrogation in other, non-incarcerated settings? If so, does "Fields" create a conflict iwth cases like "Illinois v. Perkins," 496 US 292 (1990) warranting revisiting or reversing it?

II. Does the rule of "Missouri v. Seibert," 542 US 600 (2004) apply to any attempt of officers to deliberately avoid complying with "Miranda," or just the two step procedure in that case? Should Courts weigh such deliberate avoidance in "Miranda" cases?

List of Parties

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

Table of Contents

Introduction 1

Opinions Below 1

Jurisdiction 2

Constitutional Provisions 2

Statement of the Case 2

Reasons to Grant the Writ

I. Courts are Inconsistently Reading "Howes v. Fields," 5
and Weighing Interrogation Equally Both in and out of Incarceration.

II. "Howes v. Fields" Needs to be Either Revised or Reversed. 9

A. The Reasoning was Largely Dicta, Neither Briefed Nor Argued 10

B. Many of its Factors are Irrational or Irrelevant in Prison 10

C. It has Proven Unworkable 11

D. It has Created Negative Consequences 12

III. This Case Creates a Circuit Split on Officer Intent and Seems to Conflict with "Missouri v. Seibert" 12

IV. This Case is an Ideal Vehicle on This Issue 15

Conclusion 18

Appendices

Appendix A: 8th Circuit Order Affirming Judgment

Appendix B: Suppress Transcript Ruling

Table of Authorities

Case	Page
"Alleyne v. United States," 186 LEd 2d 314 (2013)	9
"Bartnicki v. Vopper," 532 US 514 (2001)	14
"Beckwith v. United States," 425 US 341 (1976)	6
"Berkemer v. McCarty," 468 US 420 (1984)	6
"Davis v. United States," 564 US 229 (2011)	16
"Erlinger v. United States," 219 LEd 2d 45 (2024)	12
"Gulfstream Aerospace Corp. v. Mayacamas Corp," 485 US 271 (1988)	11, 12
"Hohn v. United States," 524 US 236 (1998)	10
"Howes v. Fields," 565 US 499 (2012)	1, passim
"Illinois v. Perkins," 496 US 292 (1990)	6, 15
"Johnson v. United States," 192 LEd 2d 569 (2015)	12
"Loper Bright Enters v. Raimando," 219 LEd 2d 832 (2024)	9
"Mapp v. Ohio," 367 US 643 (1961)	14
"Maryland v. Shatner," 559 US 98 (2010)	6
"Miranda v. Arizona," 384 US 436 (1967)	1, passim
"Miranda v. Arizona," 396 US 868 (1969)	17
"Missouri v. Seibert," 542 US 600 (2004)	12, 14, 15
"Monell v. New York," 436 US 658 (1978)	10
"New York v. Quarles," 467 US 649 (1984)	13, 17
"Ramos v. Louisiana," 590 US 83 (2020)	9
"Rhode Island v. Innis," 446 US 291 (1980)	13
"Stansbury v. California," 511 US 318 (1994)	13
"Thompson v. Keohane," 516 US 99 (1995)	6
"United States v. Chamberlain," 163 F3d 499 (8th Cir., 1998)	8, 16

Table of Authorities (cont.)

Case	Page
"United States v. Griffin," 922 F2d 1343 (8th Cir., 1990)	5
"United States v. King," 2024 US Dist. LEXIS 237979 (ED KY, 2024)	7
"United States v. Leon," 468 US 897 (1984)	12, 13
"United States v. Morales," 834 F2d 25 (2nd Cir., 1987)	13
"United States v. Reynosa," 2022 US App LEXIS 33732 (3rd Cir., 2022)	7
"United States v. Treanton, 57 F4th 638 (8th Cir., 2022)	11
"Utah v. Strieff," 195 LEd 2d 400 (2019)	16
"Withrow v. Williams," 507 US 680 (1993)	17

IN THE UNITED STATES SUPREME COURT

On Petition for a Writ of Certiorari

Introduction

This case presents the simple yet recurring question of how to weigh the fact of incarceration in a finding of being in custody. While this Court, in "Howes v. Fields," 565 US.499 (2012) has instructed lower courts to use the same "totality of the circumstances" test already familiar to determine whether someone is "in custody" for "Miranda" purposes, this has led to inconsistent and arbitrary application. As this case shows, Courts can treat interrogation of a free person, or may even hold an obviously custodial interrogation to be non-custodial because of the fact of incarceration.

Further guidance from this Court is needed, and,, likely, the factors from "Howes" need to be revisited, as it is proving unworkable.

Opinions Below

In "United States v. Douglas Turner," No. 23-3519, the 8th Circuit's opinion is published at 2025 US App. LEXIS 789 (8th Cir., 2025). See Appendix A.

The judgment of the Eastern District of Arkansas in denying suppression and later judgment of conviction are both unpublished. The transcripts of the ruling on suppression here appealed are included at Appendix B.

Jurisdiction

The 8th Circuit Court of Appeals entered judgment on January 14, 2025. No petition for rehearing was filed.

This Court has jurisdiction under 28 U.S.C. §1254(1)

Constitutional Provisions

Amendment V - No person shall... be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property without due process of the law...

Statement of the Case

On October 23, 2017, while incarcerated at FCI Forest City, an open barracks housing unit - for possession of child pornography, Douglas Turner was suspected of having a cell phone by a guard doing nightly rounds. His living area was searched, and upon finding the phone, Turner was transferred to the Special Housing Unit (or SHU) while he was under investigation. BOP officials found child pornography on the phone and transferred the investigation over to the FBI. After 15 days, Turner was released to general population with no BOP disciplinary proceedings brought against him.

During the investigation that followed, the cell phone was determined to belong to another inmate, John Gool, aka "Trapper John," who was also incarcerated for child pornography offenses. Though Gool was determined to have been using the phone right before and right after the child pornography images were downloaded, and that he was using the phone several times when the images were viewed, the FBI decided to ignore him and focus on Turner.

[The Government argued below that Turner rented the phone (to establish culpability) though there was no evidence of this and Turner claimed he was being paid to hold the phone so Gool would not be caught with it. Counsel did not preserve this argument below.] This seems to have been done solely because the videos were saved in a folder named "Dug."[1]

Over six months later, on May 14, 2018, FBI agents decided to interrogate Turner about the child pornography. Having just gotten off work in the prison bakery and laid down to sleep, Turner was awoken by unknown correctional officers and ordered to proceed to the Lieutenant's office for questioning. This office was generally off limits to inmates, and Turner was escorted, under guard, through at least two gates which had to be opened remotely by prison control.

The trial Court described what followed as akin to being "called to the principal's office" which is "not a good thing" (Suppression Transcript pg. 114 11 1-4). Turner was explicitly ordered to wait outside the office on a bench until he was allowed in. He was brought into a conference room with at least two agents in the room and at least two agents outside.[2] The door was closed and no one told Turner he could leave; indeed, he could not leave.

Without benefit of Miranda warnings, the FBI Agent and BOP Lieutenant began an unrecorded interrogation trying to get Turner to confess to downloading and viewing the child pornography. It is alleged that Turner made incriminating statements about viewing

1 This misspelling shows it is likely Gool wished to further minimize culpability if caught by implicating Turner, as Counsel argued on appeal.
[2] As even the agents involved could not testify who was there, the exact details remain unknown. (Government Brief pg. 5)

pornography, but the descriptions Agents claim Turner made either didn't actually match any of the videos on the phone, or were so vague they matched several. Given his offense of conviction, it is uncertain if he was talking about the files underlying his crime of conviction or those on the phone.

As a result of this interview, Turner would be charged with possession of child pornography. Due to the length of the investigation, Turner completed his prior sentence and was released. A magistrate determined pretrial detention was unwarranted and left him free on bond.

The Agents' recounting of his statements was the only evidence against him, so Turner moved to suppress them as being involuntary and as a result of the officer's refusal to obey the dictates of "Miranda." After a hearing, the District Court denied the suppression motion, finding that Turner was not "in custody" for "Miranda" purposes.[3] Recognizing there were "hydraulic pressures" (Supp Tr. at 110), the Judge nevertheless seems to have held these pressures to be irrelevant, or even held them against Turner in his ruling.

Turner exercised his right to a trial and the Government scrambled to prepare a case. There was significant debate over what, if any, files could be shown to the jury or how the Government could prove its case. The vague descriptions Agents claimed Turner gave could be said to match several images, and likely countless others out there. It was ultimately decided to just show the jury several files that might match the descriptions and let them decide, somehow, which it was. Between the prejudicial nature

[3] No ruling was made on whether the statements were voluntary at the Appellate level though preserved and raised by both parties.

of the images themselves and the prosecution's repeated references to Turner as a dangerous recidivist pedophile, the jury found Turner guilty.

Turner was sentenced on October 26, 2023 to 120 months in prison, to be followed by 10 years supervised release. He was given a $100.00 special assessment and $100.00 AVAA Assessment. A timely notice of appeal was filed, Linda S. Sheffield was appointed as Appellate Counsel.

On appeal, Counsel argued that not only was Turner plainly in custody (5 out of 6 of the factors relied upon in the case "United States v. Griffin," 922 F2d 1343 (8th Cir., 1990) were in Turner's favor), but the 8th Circuit should develop a "bright line" rule,[4] as the 2nd Circuit has, to require Miranda warnings when law enforcement is trying to get a suspect to confess to a crime. Neither the Government nor Court addressed the bright line rule, but the Court of Appeals affirmed the judgment on January 14, 2025. No hearing was sought.

Turner now seeks this Court's review.

Reasons to Grant the Writ

I. Courts are reading "Howes v. Fields," Inconsistently, Leading to treatment of prison interrogation as equally or even less coersive than police questioning outside of it.

Incarceration is fundamentally different in a great many ways than freedom, not least of which is in the interrogation context.

4 While trial counsel did not argue for a "bright line rule," he did argue the officers' subjective intention can matter, and the trial court mentioned it without clearly ruling either way (Supp. Tr. pg. 115).

It is not just the lack of true freedom of movement that separates incarcerated and free individuals, there is inherent coersions in a prison interrogation that do not exist for even individuals under arrest for serious crimes.

We do not (and need not) write a blank slate here. This Court has already recognized that not all locations are equal for the purpose of giving "Miranda" warnings. The primary question Courts must answer is whether the "relative environment" presents the same inherent coercive pressures" as a station interrogation, "Thompson v. Keohane," 516 US 99, 112 (1995); "Maryland v. Shatner," 559 US 98, 112 (2010). "Fields," too, said this was the first factor to consider, at 28.

There is nothing controversial in noting that police encounters in certain locations are more coercive or inimidating than others. Being questioned in one's home is usually far less intrusive than a police station, for example, "Beckwith v. United States," 425 US 341 (1976) as are brieff traffic stops, where the individual is in public and interactions are limited, "Berkemer v. McCarty," 468 US 420 (1984).

Prison interrogations present the same, or even higher, levels of coersion as station interrogations. In "Illinois v. Perkins," 496 US 292, 297 (1990), this Court noted that prison interrogation "may create mutual reinforcing pressures ... [that] weaken the subject's will" that go beyond normal. The Trial Court here spoke of the "hydraulic pressures" which were created by Turner's incarceration.

Any rational test, and correct application of this Court's precedents, requires that analysis start with this simple, common-

sense understanding. Nothing in "Fields" speaks to the contrary. Yet, lower courts read the requirement that they use the same " "totality of the circumstances" test as other "Miranda" cases, with most of the same factors, at 28, to mean that questioning while incarcerated is identical to questioning of a free person. Some Courts are going further holding it is less coercive, held t to a lesser standard, see for example, "United States v. King," 2024 US Dist LEXIS 237973 at 8-10 (ED KY, 2024); "United States v. Reynosa," 2022 US App LEXIS 33732 at 68n2 (3rd Cir., 2022).

Nothing in that case compels that holding, and arguably does not even allow it. The "totality" test merely recognizes that not all interactions with prison staff are equally coercive, and not all rise to the level of "custody." Read in this way, there is nothing objectionable in this holding. Common sense recognizes th that a single question by a Correctional Officer (CO) in a common public area is qualitatively different than a closed door interrogation.

But noting that some interactions are more coercive than oth others does not mean that any interaction is not coercive at all, nor does it mean that any set of circumstances will be equal to an equivalent set of circumstances for a free individual. The very fact of incarceration puts the prisoner on a categorically different footing than the citizen. While "Fields" may be correct in noting, at 29, that the prisoner does not have the same beliefs regarding his questioning as someone who has never been in trouble, he is fully aware that he does not have the same rights.

Inmates, for example, do not have the same freedom of move ment as citizens. This is not just "that they can't go home," an

inmate summoned to a Lieutenant's office or a meeting with SIS may not leave without permission. Subtle hints, like leaving a door open to signal that a person has a way out, or stating that a person isn't under arrest, might have some significance in a different setting, but the inmate is fully aware that a he has no right to actually leave, and can be punished for trying to do so, no matter what "hints" are given.

Ignoring this, and treating prison questioning as interchangeable with questioning on the streets leads not just to unfair results, but to absurd ones. Any inmate in Turner's shoes would not just have subjectively felt that they couldn't leave, they actually and objectively had no ability to do so. Pretending that choice of words, tone of voice, or size of room trump the direct commands to appear for questioning and stay until dismissed is not just a legal fiction, it is a denial of reality. If a legal test leads to results that are demonstratably false, it is of no actual value as a metric. Such results undermine public perception of the system as a whole.

Moreover, it leads to serious inconsistency in application, which increases litigation, and the burden of the Courts' dockets. "United States v. Chamberlain," 163 F3d 499 (8th Cir., 1998), which Turner's circuit decided more than 25 years ago, is almost identical to the current case. The sole difference was that Chamberlain was questioned in his place of work, where he was comfortable, Turner was questioned in a locked, restricted access area, a difference seemingly favorable to Turner. Yet, even though Chamberlain was found to be in custody, Turner was not, with no attempt to distinguish the cases.

These errors and inconsistencies are a cry for further guidance from this Court. While there will always be deviations from evennthe clearest rule, the failure of even a general consistency to develop after a decade is a sign of a problem requiring this Court's review.

II. Later Experiences Counsel in Favor of Revisiting "Howes v. Fields," and Reworking it or Overruling It.

"Fields" was originally meant to provide guidance on how to apply "Miranda" in the prison context. Far from resolving the matter, however, "Fields" has proven a stumbling block for the lower courts, and inconsistency in results seems to have increased in the wake of that decision. Over a decade later, the law is less settled than before.

Experience shows that "Fields" has problems that, at an absolute minimum, require further guidance to create a more uniform and consistent application. Full consideration of the matter may actaully call for reworking the "Fields" factors or abandoning them altogether.

While stare decisis counsels against overturning, even in part, precedent, adherence to prior decisions is not absolute, "Ramos v. Louisiana," 590 US 83, 116-17 (2020). In deciding whether to reevaluate precedent, the Court considers, among other things, the quality of reasoning, the workability of the rule established, and the reliance interests that case created, "Löper Bright Enters v. Raimondo," 219 LEd 2d 832, 863 (2024). Stare decisis is at its lowest when it involves procedural rules that do not implicate private rights, "Alleyne v. United States," 186 LEd 2d 314, 331 (

(2013).

A. The Reasoning Was Superfluous and Not Strong

"Fields" was primarily concerned with whether the test for how to apply "Miranda" in the prison setting was "clearly established" for the purposes of AEDPA review. This level of review is quite limited, asking only if the state court disregarded or obviously misapplied this Court's precedent in deciding a case, at 25. The 6th Circuit held that a person who was incarcerated was automatically "in custody" for "Miranda" purposes, and this Court stated that conclusion was not established by their cases, at 26.

Because that ruling was all that was necessary to decide the case, the rest was dicta, "Monell v. New York," 436 US 658, 709 n6 (1978). Moreover, because the parties were arguing whether "custody within custody" was an automatic presumption, the briefing did not fully address the analysis this Court used, as it was not relevant to them. This fact undermines the force of stare decisis, "Hohn v. United States, 524 US 236, 251 (1998).

B. Many of the Factors "Fields" Includes are Irrational or Irrelevant in the Prison Context

As already discussed, the very fact of incarceration necessarily changes the value and weight of even the relevant factors. But of the five factors included in "Fields," two of them are of dubious relevance in the context of a prison interrogation. Their inclusion seems to distort the analysis of the nature of questioning.

A person in prison is already in custody for every purpose other than "Miranda." Officials questioning someone in a prison setting have little reason ever to restrain them, as they are already incarcerated and have minimal actual freedom of movement. Unless the prisoner being questioned is in the SHU or is deemed dangerous, circumstances where this occurs will be rare.

Likewise, there will rarely be a purpose to "arresting" an incarcerated individual, as they are already detained. All of the reasons a suspect are arrested after an interview or confession are fully served before the interview even begins. Indeed, even in a non-prison setting, the 8th Circuit has questioned the continued relevance of this factor, "United States v. Treanton," 57 F4th 638 at 4-5 (8th Cir., 2022).

When a test has two factors that will rarely, if ever, apply, it will necessarily lead to more findings against the defendants, since 40% of the weighing is automatically against him. This leads to incorrect dismissals based on erroneous views of the circumstances. Removing these, and potentially adding other relevant factors, will lead to a more accurate test.

C. Workability of the Precedent.

While the standards in "Fields" were left fluid and with variable weight to be assigned in a case by case basis, as we have seen, the results have been inconsistent and incapable of predictable application. Arbitrary results or rules so standardless they cannot be fairly applied to similarly situated individuals is usually a strike against precedent, "Gulfstream Aerospace Corp. v.

Mayacamas Corp.," 485 US 271, 282-83 (1988); "Johnson v. United States," 192 LEd 2d 569, 578-81 (2015).

D. Negative Results

It is not enough that a case be wrong, it must have caused some sort of negative real world consequences to be revisited, "Erlinger v. United States," 219 LEd 2d 451, 483 (2024). "Fields" has not just caused confusion, it has led to deliberate disregard of this Court's precedent.

Justice Blackmun, the deciding vote in "Leon," at 928, noted that the "good faith" exception was based on the idea that police would not consciously disregard the 4th (or 5th) Amendment, but, if later proved that wrong, it would need to be revisited. Cases like this show that failure to comply with the modest requirements of "Miranda" and other procedural Constitutional requirements has increased and is often deliberate.

Part of "Miranda's" strength was it's bright line, easy to understand rules. And members of this Court have already noted that the more exceptions and work-arounds are created, the harder it is to comply, for even officers trying to abide by the rules, "Seibert," at 622. It has certainly increased the case load and increased the backlog in the Courts as litigation becomes ever more complex and fact specific.

All of these facts warrant revising or reversing "Fields," both to protect the rights of individual defendants and to promote the efficiency and integrity of the Courts.

III. This Case Creates a Circuit Split Regarding Officer Intent

Regarding Miranda Warnings.

The Relevance of an officer's subjective intent, as the extent it should be considered by a trial court are still open quesitons. As the trial court noted, it "can matter though it doesn't always matter" (Supp. Tr. pg. 115). The case law is mixed on the question, compare "New York v. Quarles," 467 US 649, 655-56 8 n6 (1984); "Rhode Island v. Innis," 446 US 291, 301 (1980) (this is an objective question not judged by the subjective beliefs of the individuals involved) with "Stansbury v. California," 511 US 318, 325 (1994) (the subjective intent of the officer can matter).

The 2nd Circuit, in "United States v. Morales," 834 F2d 25 (1987) created a simple, "bright line" test. If law enforcement knows the subject of an interview has commited (or is suspected of) a crime,and they intend to try and obtain incriminating statements, "Miranda" warnings are required. Counsel raised this below and asked the 8th Circuit to adopt it (Opening brief pg. 8-9). By declining this invitation, the 8th Circuit has, at least implicitly, rejected this test and created a Circuit split.

The benefits of the 2nd Circuit's approach are plain, and it is remarkably easy to apply. Unlike multifactor balancing tests, where the individual factors vary in importance with each case, this test is the same two questions each time, with the same weight each time. This reduces litigation significantly and eases the burdens on the courts.

From a law enforcement perspective, it is also simple to comply with. By setting a simple rule, it has increased compliance with the Constitution, see "United States v. Leon," 468 US 897,

953 n13 (1984) (noting how "Mapp v. Ohio," 367 US 643 (1961) caused police to change policies leading to higher professionalism). Since it focuses on the officer's knowledge, it only excludes confessions made when law enforcement deliberately chooses not to comply with "Miranda." The costs of compliance are minor, both to law enforcement and to society at large.

The 2nd Circuit's test fits squarely within the role of the exclusionary rule to discourage police misconduct. It seeks to enforce compliance with the 5th Amendment by removing incentive to disregard it, see "Bartnicki v. Vopper," 532 US 514, 550-51 (2001) (Alito, dissenting,) (comparing the exclusionary rule to laws banning child pornography, both prevent the perpetrator from profiting from their crime). Not every technical violation or accident is excluded, only deliberate willful violations.

This Court's later ruling in "Missouri v. Seibert," 542 US 600 (2004) supports going with the 2nd Circuit's approach. There, police engaged in a two part procedure to circumvent the purpose and procedure involved in "Miranda." They would engage in an interrogation without the warnings required, and, when the suspect incriminated himself, pause, administer the "Miranda" warnings and get them to repeat the damning statments.

The "Seibert" opinion focused on the deliberate avoidance of those safeguards. While an officer admitting (as they did here) that they simply don't want to comply will be rare, at 616, the intent was the deciding factor for the concurrence (which, as the narrowest opinion, was the deciding, and controlling vote). Unlike an accidental omission, the willful failure to abide by the law should weigh, and weigh heavily, against the Government, at 616, 620-21.

While a different procedure was used here, the same intent was at play, and a similar result occurred. If anything, the violation is arguably worse here as "Miranda" warnings were never issued at all. The spirit of the "Seibert" opinion, rather than a technical focus, on minute differences in methodology, should control.

By declining to even address the question posed by Counsel, the 8th Circuit set itself on the opposite side of the 2nd Circuit on this issue and tacitly approved of procedures of the same practical effect as in "Seibert." This warrants Certiorari to resolve the split and defend this Court's precedents.

IV. This Case is an Ideal Vehicle to Provide Guidance.

At the suppression hearing, the District Court noted that "there's of course, hydraulic pressure for [Turner] to answer and cooperate." This "hydraulic pressure" as the Court described it, was largely inherent in, or "created by the circumstance of incarceration." (Supp. Tr. pg. 110) That recognition is fully in accord with this Court's recognition in "Illinois v. Perkins," 496 US 292, 297 (1990) that "questioning by captors, who appear to control the suspect's fate, may create mutually reinforcing pressures that ... will weaken the suspect's will."

Despite recognizing that prison interrogation might be inherently coersive, the judge dismissed this as a mere fact of incarceration. Far from crediting inherent pressures in favor of finding a custodial setting of the type that "Miranda" is supposed to prevent, the Court repeatedly weighed that against Turner. Indeed, the judge as much as admitted that, had Turner been a free

individual subjected to the same treatment, it would have been custodial, and the 8th Circuit affirmed that conclusion.

This case is a perfect example of the general inability to create and maintain a consistent standard. Both parties below cited and discussed "United States v. Chamberlain," 163 F3d 499 (8th Cir., 1998), another prison child pornography case. In many ways, Chamberlain's custodial situation was less compelling than Turner's: he was questioned in comfortable and familiar surroundings by a single officer. Yet his case was held to be a custodial interrogation requiring "Miranda safeguards where Turner's was not. The inexplicable different outcome creates an appearance of arbitrariness that undermines the perception of the integrity of the Courts and respect for the law.

This case also involves a conscious effort by law enforcement to evade the requirements of "Miranda." This is no case of good faith error or reliance on mistaken impressions of law. FBI Agent Johnson testified that he knew, going in, that he was going to try to get Turner to admit to committing a crime and that he simply decided he was not going to give him "Miranda" warnings (pg. 67).

This Court has often highlighted the subjective mindset of the officers involved in emphasizing whether exclusion is warranted or not. Technical mistakes or accidents do not necessarily warrant it, as there would be "no deterrent value," "Utah v. Strieff," 195 LEd 2d 400, 409 (2016) (citing "Davis.v. United States," 564 US 229, 236-37 (2011)). But where, as here, violations are deliberate, willful, or worse, the exclusionary rule has been applied to deter blameworthy conduct that society wishes to put a halt to. A law enforcement agent simply deciding he does not wish to

follow this Court's precedent, especially when the burdens imposed are light, certainly qualifies.

Finally, this case offers a rarity, an example of the costs of unnecessary shortcuts. While critics of the exclusionary rule are quick to point out the "high costs" of exclusion, especially in the "Miranda"[5] context, see, for example, "Withrow v. Williams," 507 US 680, 701 (1993); "New York v. Quarles," 467 US 649, 669 (1984). But see "United States v. Leon," 468 US 897, 950-51 at n11 (1984) (noting that failures to prosecute, let alone convict, based on exclusion seem to be rare), there are often costs to letting such errors go uncorrected.

Here, law enforcement had significant evidence that John Gool (Gould in the court documents) was, at a minimum, also accessing the child pornography in question. Some of the illegal files were accessed when Gool was talking/texting his wife, (Tr. Trans. pg. 94). In focusing on Turner, Gool fell off of the radar.

This is not because the agent in question got lucky and happened to get the actual guilty party despite misleading evidence. To the contrary, under the Government's own theory, presented to the jury at trial, Gool was selling Turner the phone to give him access to child pornography. The Government went after the least culpable offender in what it believed was a child pornography conspiracy because of the Constitutional violations committed by law enforcement.

Here, an obviously guilty offender escaped justice because the Government violated "Miranda."

5 It is worth noting Miranda was still convicted, "Miranda v. Arizona," 396 US 868 (1969).

Worse, outside of vague, ambiguous, off the record statements, there is no evidence Turner viewed child pornography in this case. The agents in this case made the conscious choice not to video or audio record the interview, which is highly irregular in today's practices. There was no signed summary of confession, or anything with Turner's name on it. After the confession supposedly occurred, agents could not even identify the files Turner supposedly confessed to viewing.

These factors make Turner's case ideal for this Court to review and enforce the dictates of "Miranda," to clear up the confusion on how to apply it in the prison context, and to ensure society does not lose out through future violations of this type.

Conclusion

For these reasons, a Writ of Certiorari should be granted.

Respectfully submitted this 31st day of March, 2025,

Douglas Turner