

On Petition for Writ of Certiorari, brief of the Appellant to the U.S. Supreme Court of the Denial of Rehearing by the 10th Circuit Court of Appeals on 9-18-2017 and Notice of Appeal received 10-13-2017.

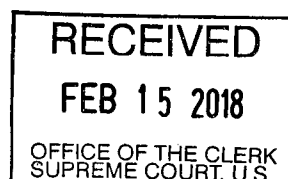
Jamie Stanton-Appellant,
Plaintiff/Petitioner.

Case No. 17-3098
Appellant's Opening Brief

vs.

John Doe, et al-Appellee,
Respondent/Defendant.

Jamie Stanton
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Wichita, KS 67201
(316) 866-3825



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List of Questions:

I. (A).

Questions presented in this Writ of Certiorari to this court are the following:

1. Is it unconstitutional to use a U.S. Citizen's car gps system to track them for an extended period of time (24 months) without a warrant or probable cause under the Fourth Amendment of the U.S. Constitution?
2. If an individual is a minority and is constant, 24 hours, 7-days a week tracked for an extended period of time (24 months) a violation of their Civil Rights without probable cause, or a warrant in addition to a fourth Amendment violation?
3. Is it unconstitutional to perform surveillance on a citizen for 24 months (an extended period of time) without a warrant or probable cause under the Fourth, Fifth and Fourteenth Amendment of the U.S. Constitution?
4. Is it unconstitutional for a "person" (their car), and home/apt to be electronically monitored via electronic signals from electronic devices (i.e. tablets, smartphone, laptop's) or other electronic devices (for an extended period of time 24 months) without consent, a warrant or probable cause under the Fourth, Fifth and Fourteenth Amendment of the U.S. Constitution without abridging a citizens liberty (freedom), or a violation of an individual's

“privacy and personal effects” portions of the Fourth Amendment of the U.S. Constitution?

(B). List of all parties to the proceeding: Defendant's;

1. Aurora Police Department, 15001 E. Alameda, Aurora, CO 80012
2. Oklahoma City Clerk's Office on behalf of OKC Police Department, 200 N. Weaver Ave, OKC, OK73102
3. Oklahoma City Clerk's Office on behalf of the OKC Sheriff's Department, 320 Robert S. Kerr Ave., OKC, OK 73102
4. Warr Acre's City Hall, on behalf of the Putnam City Police Department, 5930 N.W. 49th St., Warr Acres, OK 73122
5. Eutaw Police Department, 116 Main St., Eutaw, AL 35462
6. Greene County Sheriff's Department, 400 Morrow Ave., Eutaw, AL. 35462
7. Wichita City Clerk's Office on behalf of the Wichita Police Department, Wichita, KS 67202

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(i).

1. Federal District Court: Memorandum and Order dated April 6, 2017: 2:17-cv-02120-DDC-KGG.

2. Notice of Appeal: 2:17-cv-02120-DDC-KGG-Notice of Electronic Filing.

Pro Se Appellant Appeal: Fee Status- IFP granted on 3-6-2017.

(iii).

1. Federal Court of Appeals, 10th Circuit: Order and Judgment NO. 17-3098 (D.C.No. 2:17-CV-02120-DDC-KGG) (D.Kan.), decided August 31, 2017.

2. Petition for Rehearing: Denied Sept. 18, 2017 and received on Sept. 21, 2017.

3. Notice of Appeal received by court on Sept. 29 2017 and returned on Oct. 13, 2017 with instructions for me to contact this court.

Attachments:

- (A). Picture of back of refrigerator regarding distance to 3x3 feet hole in the wall with affidavit.
- (B). Copy of notice to Federal District Court.
- (C). Picture of car electronic mileage setting at zero when my car had 67,000 miles with affidavit.
- (D). Pictures of various Police/Law enforcement automobiles arriving within minutes of my arrival in their vicinity.
- (E). List of U.S. Constitutional and Civil Right Violations
By each of the identified defendants.
- (F). Thermal-Imaging

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U.S.v. Jones, 565 U.S. 400, 412 (2012)..... 8, 13, 15.

U.S.C. Codes: 28 U.S.C. 1915€(2)(B)(ii).

(D). Court Citations:

(i). 1. Federal District Court- Wichita, KS: Dist/Ag docket: 2:17-CV-02120-DDC-

KGG

2. Federal court of Appeals, 10th Circuit- Denver, CO: 17-3098, Stanton v.

Unknown Agent or Agency, et al., and Petition for Rehearing 9-18-2017.

3. Notice of Appeal, 10th Circuit, Court of Appeals, Denver, CO:17-3098,

Stanton v. Unknown Agents received by the court on 9-29-2017 returned 10-

13-2017.

(E). Bases for Jurisdiction: This Writ of Certiorari is based on various Constitutional violations involving the Fourth, Fifth, and Fourteenth Amendment of the U.S. Constitution.

In Petition for Rehearing to the 10th Circuit Court of Appeals, I provided "evidence" in the form of pictures in relations to my claims. The Petition for Rehearing was Denied on Sept. 18, 2017.

(i). Petitioner received a copy of the court's ruling on September 21, 2017 of his Petition for Rehearing, Petitioner's response to the Court of Appeals Denial of Rehearing was to file a Notice of Appeal to the 10th Circuit Court of Appeals. The Notice was received on Sept. 29, 2017 and returned to petition on Oct. 13, 2017.

On Sept. 29, 2017, the Notice of Appeal was returned with instruction for Petitioner to contact the U.S. Supreme Court regarding obtaining instructions for the filing of a Writ of Certiorari to the U.S. Supreme Court.

(ii). Petition for Rehearing, to U.S. Court of Appeals 10th Circuit was denied on Sept. 18, 2017 and a letter was received on Sept. 21, 2017. Petitioner filed a Notice of Appeal and it was received and time stamped on Sept. 29, 2017. However, the Notice of Appeal was returned to Petitioner on Oct. 7, 2017 with instructions to contact the Clerk of the Court, U.S. Supreme Court to obtain instructions.

(F). Constitutional Provisions:

Fourth Amendment:

Fourth Amendment states "no warrant shall issue, but "upon probable cause," supported by Oath of affirmation and particularly describing the describing the item to be searched, and the person or thing to be seized." How could Oklahoma City PD/Sheriff's Dept., the Putnam City Police Dept., the Eutaw Police Dept., and Greene County Sheriff's Dept., the Putnam City Police Dept., and finally the Wichita Police Dept., each obtain a warrant within hours of my arrival? What was the probable cause or the determining factors for such a warrant to be issued? Without a warrant, or probable cause, each of these participants has performed either "warrantless surveillance or engaged in harassment, intimidation, and racial profiling which are civil right violations in addition to violating a citizen constitutional rights. Furthermore, long-term (over 4 weeks) GPS (and other forms of surveillance) was ruled a violation of one's constitutional rights (U.S. v. Jones, 2012).

"we need not identify in this case, with precision the point at which the tracking of this vehicle became a search, for the line was crossed before the 4-week mark." (U.S. v Jones, 132 S. Ct. 945-U.S. Supreme Court 2012.)

Finally, "what a person seeks to preserve as private, even if accessible to the public, may be constitutionally protected. Additionally, Justice Alito incisively observed and added, "situations involving merely the transmission of electronic signals without trespass remains subject to the Kantz analysis (can be a violation of one's constitutional rights). (Kantz, 389 U.S. at 351-352. 88 S. Ct.507).

Fifth Amendment:

..... "nor be deprived of life, liberty (freedom to travel) or property without "process of law." To confine a U.S. citizen to long term (18 plus months) surveillance is a direct (whether intentional or not) depravity of a full life and a life of liberty.

Freedom to travel and visit family and friends as one wishes, to go to one's private physician, private dentist, private orthopedic physician, etc. Thus, resulting in the denial of one's own actual freedom (liberty). Such an extended period (24 months) of ongoing surveillance for any average "potential" crime in itself is criminal in nature.

Fourteenth Amendment:

"....no state shall make or "enforce any law" which shall "abridge the privilege's 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."

Thus, each of the named defendants in this case violated the 14th Amendment of the U.S. Constitution by their action and behavior. For, each of the named defendants had patrol cars (officers) from their departments providing surveillance of my whereabouts while I was in their jurisdiction. This is nothing short of abuse of power, harassment, racial profiling, attempts of intimidation and ongoing, 24 hours

a day, 7 days a week for an extended period (24 months and counting) of warrantless surveillance, without any probable cause or a warrant.

Civil Rights Act of 1964, Title II, Sec. 201

As a minority the following civil rights were violated by the individual and/or agencies identified as defendants in this filing:

Sec. (203):

No person shall (a) withhold or attempt to deprive, any person of any rights or privilege secured by section 201 or 202, or;

(b) intimidate, threaten, coerce any person with purpose or interfering with any right or privilege secured by section:

201 or 202, or

(c) punish or attempt to punish any person for exercising or attempting to exercise any right or privilege secured by section 201 or 202.

V. Civil Rights Act of 1991, Sec. 2 Finding and Purposes:

(b) Purpose of this act are to.....

(1) Respond to the supreme court's decisions by restoring the civil rights protections that were dramatically limited by previous decisions; and (2) Strengthen existing protections and remedies available under federal civil right laws and to provide a more effective deterrence and adequate compensation for victims of discrimination.....

Sec 12 (c) The rights protected by this section are protected against impairment by "nongovernmental discrimination as well as against impairment under the color of state law."

VI. Racial Profiling

Racial profiling is based on a prejudging without probable cause of the likely-hood of involvement in criminal activity on the basis of discriminatory factors, and is therefore a violation of the constitutional guarantees of Due Process, equal protection, and the presumption of innocence guarantees of the U.S. Constitution.

VII. Racism

Racism is based on the "assumption" that inherited characteristics render some races superior and other inferior as a means to justify discrimination. The Bill of Rights and especially the Fourteenth Amendment of the U.S. Constitution bar the use of race in determining status or abridging the rights of anyone in virtually every context that law and government regulates.

(G). Concise Statement of the case:

(i). I filed this case in the Kansas Federal District Court due to issues related to ongoing surveillance and GPS monitoring for the past 24 months. My apt. had a 3x3 hole cut into the wall that was hidden behind my refrigerator. Whenever a certain

helicopter flew over my apartment building (black in nature, no markings) my refrigerator cooling system would turn on instantly. I informed the District court about this incident after moving my refrigerator and finding a 3x3 feet hole cut into the wall of my apartment allowing access to my apartment (see pictures in appendix).

Anywhere I have traveled in the previous 24 months I have been monitored by GPS and the local police dept. and/or Sherriff officers has appeared within minutes of my arrival into any town/township, municipality and/or city. The district court held that since I did not "know" the person or party that placed the device on my car, (or hijacked my personal car gps system), I could not have a case.

Defendant Number 1 was dismissed from the case, then the District court ruled that my entire case was being dismissed. I could understand that defendant (1) may or may not have placed the GPS device on my car (the Aurora, CO Police Dept.), they had jurisdiction since I resided in that city at the time when I first became aware of any of this (GPS tracking, either by placing a device on one's car or by tracking a person using their own gps system).

However, defendants 2-7 "acted" on the electronic information received from this device and they should be held accountable for their actions/behavior.

(ii). Constitutional violations of the Fourth, Fifth, and Fourteenth Amendment of the U.S. Constitution. As well as Civil Rights violations are related to the filing of

this case by each of the defendants identified in this case in the Federal District Court.

(H). Concise Argument amplifying the reason relied on for allowing this Writ of Certiorari?

Based on the current ruling by the 10th Circuit Court of Appeals, a citizen may have a gps device or have their own car's personal device electronically tracked via phones, apps, tablets, computers, etc...electronically. The citizen does not have a case if: (1). They are not approached by law enforcement, (2). They do not remove the device or tear out they front panel of their car in an attempt to remove it (their own personal car gps system). (3). If you are not arrested, but only surveilled for an extended period of time (in my case 24 months), then it is permitted for law enforcement to track a citizen. Because one does not have any rights to "personal privacy while one is travelling on a through-fare." Nothing is said about the invading of one's privacy by the gps tracking or of the sending of electrical signals into one's private automobile in an attempt to gain access to their gps system without permission, consent, probable cause or a warrant. However, law enforcement can harass a citizen indefinitely right now without any consequences what so ever.

The 10th Circuit held in their order dated Aug. 31, 2017, (pg.4.) Paragraph 2. " As for Fourth Amendment rights, following and observing does not ordinarily implicate those rights." See U.S. v. Jones, 565 U.S. 400, 412 (2012). In that case (U.S. v. Jones, 2012) the observation was NOT for 24 months and counting. Furthermore,

does observation allows "for years of observing, tracking and following without violating one's fourth amendment rights? " They went on to say..."Our cases suggests that visual observation [even a large team of agents, using multiple vehicle's and aerial assistance] is constitutionally permissible."] For how long? A day, a week, a month, even years, all without a warrant, probable cause or consent?

Furthermore, in the Jone's case, this gps tracking was "supposed" to have lasted for 10 days. Instead it went on for a month. This very court held:

"we need not identify in this case, with precision the point at which the tracking of this vehicle became a search, for the line was crossed before the 4-week mark."
(U.S. v Jones, 132 S. Ct. 945-U.S. Supreme Court 2012.)

My case is about 23 months of more surveillance (without a warrant, probable cause, or consent) than was discussed in the Jones case, even an expired warrant was evident in the Jones case. Plain and simple, this has been nothing short of ongoing harassment under the guise of "surveillance." Furthermore, any minority (or citizen) of the U.S., it is now legal in the 10th Circuit for this kind of indefinite, ongoing, continuous long-term (24 months and counting in my case) as long as one is not approached, does not remove the device, the surveillance can be for years without any consequences for law enforcement.

The court also cited, U.S. v Knotts, 460 U.S. 276, 281 (1983) it stated that: "A person travelling in an automobile on public through-fares has no reasonable expectation of privacy in his movements from one place to another."

Again, "neither in the Jones case, or the Knotts case involved "continuously" and "indefinitely" surveillance for a "prolong and extended period of time" (24 months

continuously). Secondly, my case does not just involve the visual surveillance for a short, brief period of time but for Years! In the Jones case, the “expired warrant” was for 10 days, placed on Mr. Jones automobile for 3 weeks “after” the 10 days approved by the warrant. Again, there is not a legal warrant that authorizes 24 months of continuous “surveillance”, for 24 hours a day, over multiple states, and multiple jurisdictions without the ability to have some form of probable cause at least. If, I did not reside in each jurisdiction, where is the ability to claim “probable cause?” How can law enforcement even claim that they had a C.I. (confidential informant)? It is impossible, resulting in the only logical conclusion left.....

” legalized harassment” of a U.S. minority, and a U.S. citizen.

Additionally, the use of electronically "tracking" of my personal automobile using electronic signals (via apps, smartphones, tablets, computers, etc....) and the gps tracking is a clear and direct violation of my constitutional rights under U.S. v. Jones, 565 U.S. 400, 412 (2012).

There is not a single word mention about the invasion of the privacy of my home in the entire ruling by the 10th circuit. It is almost like that issue did not even exist! Also, in neither the U.S. v. Jones, 565 U.S. 400, 412 or U.S. v. Knotts, 460 U.S. 276, 281 (1983) did this court state that "long term, in-depth, 24 hours/7-days a week, of surveillance" was constitutional for an “extended period of time” (24 months in my case.)

Furthermore, in the Jones case "specially," this court held that "due to the prolong nature of the surveillance (30 days) in which the government only had a warrant for 11 days, the gps tracking was warrantless." Finally, the court held, that "we do not need to decide exactly at what point the surveillance violated the petitioner in that case constitutional rights, yet the extent of the surveillance for an extended period of time (3 weeks in that case) was too much surveillance and violated Mr. Jones constitutional rights due to the surveillance without a warrant or probable cause.

The 10th Circuit stated, there was no attempt to "remove" the device from my car. I could "not" do so without ripping out the car gps system. Should I have to destroy my own property to ensure that law enforcement do not violate my constitutional and civil rights? Why is the petitioner being blamed for the actions of law enforcement?

Ironically, the 10th Circuit, stated in their order on page 4, last paragraph;

"The facts alleged by Plaintiff, however, although "consistent with surveillance, do not raise the likelihood of his being surveilled from possible to plausible. (pg. 5. Paragraph 1.)

On petition for Rehearing, (decided Sept. 18, 2017 and received on Sept. 21, 2017) Petitioner submitted the photos in appendix as evidence "see Appendix," the court denied petition for rehearing even with such "evidence" of one being surveilled to plausible "without a hearing."

Finally, the court stated, (pg.5) final paragraph; stated

"he raises no reason for the alleged surveillance in multiple states beyond a speculation that is meant "to abuse and harass, pure and simple." Appt. App., Vol. I at 6.

I did not reside in several of the states I identified being tracked or "racially profiled" by law enforcement. Thus, there is no plausible explanation of why I would be under any kind of investigation in those towns, cities, municipalities.

There is no logical reason for law enforcement to be at my location upon my visiting "my family and friends" other than surveillance, extended and long-term for over 24 months.

I took my mom to post-radiation treatment after a breast cancer lump was removed, in Demopolis, AL, awaiting our return to the car was a Demopolis Police officer sitting in his car. There are hundreds of these kinds of incidents that have occurred over the past 24 months.

I have only listed in my claim the worst 7 defendants. In every township, city, or municipality that I have travel over the course of the past 24 months the police/Sheriffs of that area just magically appearing has occurred. What could be the probable cause, if I am there for 2-4 days visiting a family member or a friend?

In traveling to my physician, the grocery store, the pharmacy to pick up meds, my dentist, or my orthodontist regarding my braces, in each of these places, I have had the privilege of having a law enforcement vehicle of some city, county, or municipality to either appear during my visit to these places of business or to be

awaiting my arrival (as the case in Oklahoma City), once the pattern of my schedule was learned.

The ruling by the 10th Circuit states "this is consistent with surveillance, but is not plausible." (pg. 5, Paragraph 1.).

Since I do not "believe" that a judge alive today, would issue a "open" warrant for surveillance for any prolong and extended period of time, without any kind of "probable cause," then the only logical conclusion for the surveillance is plain...to harass, abuse of power, to attempt to intimidate all under the guise of "law enforcement and surveillance" for over 2 years.

Thus, without "no allegation of physical evidence (sent photos in Petition for Rehearing-denied 9-18 and received on 9-21-2017), credible motive, (violation of civil rights of minorities and constitutional rights is not enough?) or actual police contact, Plaintiff's claims of being surveilled and having a tracking device placed on his car does not meet standard of plausibility required to survive 28 U.S.C. 1915(e)(2)(B)(ii).

Finally, the there are three reasons for this Writ of Cert., to be granted:

1. A party without my consent came into my apartment, where upon I resided and cut a 3 x 3 feet hole (approx.) into my kitchen wall. Furthermore, this hole was then "hidden" from my view or anyone's else who came into my apartment. That is because it was "physically hidden" behind my own refrigerator. This hole was not discovered until after a couple of weeks during a fly-over by a black, bubble shaped helicopter flying over my apartment

building and within seconds the cooling system of my refrigerator would just automatically come on. This occurred within minutes of my arrival home.

I eventually became curious about this connection between the fly-over and the cooling system coming and started to check-out my refrigerator. Upon moving it, this hole in the wall was discovered. I informed the federal district court about his discovery in February 2017, prior to their dismissal of my case. Additionally, I filed two motions related to this issued and they were dismissed when my case was dismissed by the district court without review because in the district court's view, if I did not know who placed the device on my car or in it, then I did not have a case. This is not consistent with this court's rulings. In all the cases I have reviewed by this court, the sanctity of an individual's home has always been protected!

2. In U.S. v. Jones (2012) this court held that the placement of a gps device on an individual's car and tracking them was unconstitutional due to it being a Fourth Amendment violation.

Then is there any "actual" difference between the actual placement of the gps device and tracking someone and actually "gaining access to someone's gps device without their consent, a warrant, or probable cause" and tracking their every movement for 24 months? The car is my sole property, and insured by its owner. The owner did not consent to having their gps system tracked, there is no warrant, no probable cause, then this should be a clear constitutional violation.

The access is gained by electronic signaling devices sent into the person's automobile via computers, tablets, and smartphones, etc...

Furthermore, to use this "non-consensual consent device" to track a citizen when they go grocery shopping, to the movies, to their dentist, their primary care physician, to physical therapy, even when they go to visit family and friends.....

Is this not a "violation of reasonable expectation of privacy as outlined in the Kantz analysis?" And for this to go on for 24 months is definitely a violation of expectation of privacy as defined in the Kantz Analysis.

This "surveillance" has gone on for 24 months straight, 24 hours a day, even into my home (apartment) at some point does this "surveillance" then become a legal means/form to harassment a citizen?

3. The Civil Rights Act of 1964 was enacted to protect minorities from abuse (s) of power by their fellow citizen (s). Also, a means to provide "protection" against harassment, intimidation, and threatening behavior/actions even by those acting on behalf of their city, state or federal government.

To "track" a U.S. citizen who is a minority by law enforcement (the previous most used governmental agency used to violate minorities civil right) for a 24 months straight, without any probable cause, a warrant, or consent across multiple states just because the means and the technology exists, by hacking into the individuals gps system is nothing short of a clear violation a citizens constitutional and civil rights. In the hope of "seeing" something that could be "potentially" criminal in nature, then to have a "legal arrest."

Such actions are a step backwards to the days and time prior to the Civil Rights Act of 1964, where those in power (law enforcement) in particular could and did treat minorities without thought to any rights let alone that persons civil rights. There is simply no logical reason for a minority citizen, a teacher, school counselor, school director to be under 24 hours surveillance for over a 24 months period. What were they expecting me to be doing.....preparing for some kind of book-burning session of their favorite novels? Even, that act (book-burning) is covered under the U.S. Constitution as long as the books that I was burning belonged to me.

Petitioner thought he had until a hearing to submit any and all "evidence" and that this "evidence "did not" have to be included in the filing of the Notice of Appeal. Upon receiving the denial from the 10th Circuit Court of appeals, of my appeal, I submitted a Petition for a Rehearing. This Petition was denied on Sept. 18 and Notice received on Sept. 21, 2017. Petitioner then filed a Notice of Appeal received on Sept. 29, 2017 and it's was return instructing me to contact the Clerk of this court, returned date of Oct. 13, 2017 with this courts address.

Appendix: Orders/opinions:

(i).

1. Federal District Court: Memorandum and Order dated April 6, 2017: 2:17-cv-02120-DDC-KGG.

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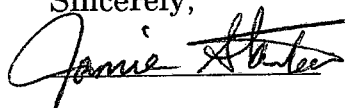
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Sincerely,



Jamie Stanton

2-7-18

Date