

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

Terry Bridges - — PETITIONER
(Your Name)

vs.

People of The State of Illinois — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Illinois Supreme Court
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Terry Bridges - M48255
(Your Name)

PO Box 1000
(Address)

Menard, IL 62259
(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

- I. This court should consider *People v. Thomas*, 2016 IL 141040, in its analysis because the appellate court did not address it when they ruled on the case. The court will find that there was no basis upon which to order Bridges out of his SUV, and reverse Bridges conviction based on the trial court's erroneous denial of his motion to quash arrest and suppress evidence.
- II. This court should grant the petition for a Writ of certiorari to clarify its decision in *People v. Colyar*, 2013 IL 111835, and make explicit that a police officer may only make a legal Terry stop if he has reasonable suspicion of criminal activity, not a mere hunch that a suspect may be armed.
- III. This court should grant Writ of certiorari and reverse the judgment of the appellate court where under any standard Officer Cravens lacked the suspicion necessary to seize Bridges.

LIST OF PARTIES

- ☒ All parties appear in the caption of the case on the cover page.
- ☐ 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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OTHER

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

☐ For cases from federal courts:

The opinion of the United States court of appeals appears at Appendix _____ to the petition and is

- ☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the United States district court appears at Appendix _____ to the petition and is

- ☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

☐ For cases from state courts:

The opinion of the highest state court to review the merits appears at Appendix C to the petition and is

- ☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

The opinion of the Appellate Court of Illinois court appears at Appendix A to the petition and is

- ☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

JURISDICTION

☐ For cases from federal courts:

The date on which the United States Court of Appeals decided my case was _____.

☐ No petition for rehearing was timely filed in my case.

☐ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ____ A ____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☒ For cases from state courts:

The date on which the highest state court decided my case was 9/27/17
A copy of that decision appears at Appendix C.

☒ A timely petition for rehearing was thereafter denied on the following date: 10/10/17, and a copy of the order denying rehearing appears at Appendix C.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ____ A ____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Statement of the Case

The State charged Terry Bridges with one count of Possession of a Defaced Firearm (Count 1) and various Aggravated Unlawful Use of a Weapon offenses (Count 2-5). (C. 29-32). Prior to trial, the State moved to nolle pros all but Count 1. (R. U3). After a jury trial, Bridges was found guilty. (R. LL64). The trial court sentenced Bridges to two years in the Illinois Department of Corrections followed by a one-year term of MSR. (R. NW19-20).

Prior to trial, defense counsel filed a motion to suppress the physical evidence discovered as a result of Bridges's arrest. (C. 58-60). Both Bridges and Chicago Police Officer Cravens testified at the hearing on the motion. Bridges explained that on April 22, 2012, at about 7:30 p.m., he was in his truck parked in front of his aunt's house. (R. GG6).

He was waiting both on a female friend of his and for his aunt to finish cooking dinner. (R. GG6-7).

A friend of Bridges's, Boris Ward, came up to the car and got in on the passenger side. (R. GG8-9).

After about 10-15 minutes, Bridges saw a marked police car pull up in his rearview mirror. (R. GG9-10).

The police got out of their car and walked up to Bridges's car, at which point Bridges rolled

down his window and gave the officer his license and insurance. (R. GG10). Bridges explained that the officer never asked him to see his hands nor did the officer ever display a gun. (R. GG24-5,30). The officer told Bridges to get out of the car, and the other officer pulled Ward out of the car. (R. GG11). Both Bridges and Ward were put in handcuffs and then the officers searched the car. (R. GG11). Bridges denied committing any crimes or planning to commit any crimes. (R. GG11). As Bridges was handcuffed he saw one of the officers searching his car - that officer eventually told Bridges that he had found a gun in the back armrest console. (R. GG12-13).

Officer Cravens testified that on April 22, 2012, he was on patrol near the 300 block of South Western Avenue with his partner, Officer Itoly. (R. GG45-6). At about 8:00 p.m. a woman, who Cravens did not know, spoke to the officers near the intersection of Madison and Western. (R. GG47, 63-4). The woman told the officers that "there was a gray Infiniti SUV parked around the area of Jackson and Western occupied by two male occupants that did not live in the area." (R. GG47).

The woman also explained that the SUV had been there for a while. (R. GG 47). Cravens and Holy made the one to two minute drive to Jackson and Western and saw the gray Infiniti parked at 330 South Western. (R. GG 47-8). The SUV was parked properly and there was no loud noise coming from it. (R. GG 64).

When the officers it was still light out, but approaching sunset. (R. GG 48). The officers could not see into the back of the SUV due to tinted windows, but were able to tell that there was a person in the driver's seat and another in the passenger's seat. (R. GG 48-9). Cravens parked the car behind, and slightly to the left, of the SUV. (R. GG 50). He got out and started walking up to the driver's side of the SUV. (R. GG 50). His gun was not drawn. (R. GG 50). Cravens testified that, in his experience conducting thousands of traffic stops, he was concerned because he could not see Bridges's hands. (R. GG 52). He then saw Bridges move his arm quickly "as if his right arm was reaching toward the back seat." (R. GG 53). The movement lasted for seconds. (R. GG 53). Cravens believed this movement meant that Bridges was either hiding or retrieving a weapon. (R. GG 53).

On cross, Cravens admitted, "I don't know what he could have been reaching for." (R. GG66).

Despite Craven's concern, he "engaged [Bridges] in a conversation" that consisted of Cravens identifying himself and asking Bridges what he was doing in the area. (R. GG54). Bridges also gave Cravens his license and proof of insurance. (R. GG65). Bridges further explained to Cravens that he was visiting his aunt. (R. GG66). After this interaction, Cravens ordered Bridges out of the SUV because he wanted to get Bridges out of a situation where he could retrieve a gun. (R. GG55, 66). As Bridges got out of the car, an interior dome light came on and Cravens was able to see the butt of a gun sticking out of the back seat console. (R. GG55). Cravens explained that the gun was a 9mm handgun with 11 rounds inside and a defaced serial number. (R. GG56). Cravens arrested Bridges. (R. GG57). The trial court denied defense counsel's motion to suppress, finding that "what changed everything was that furtive movement and based on the safety and security of the officer he had the right... to take them out and see the butt of the gun." (R. GG834).

² Bridges appealed.

On direct appeal Bridges argued, inter alia, that the trial court erred when it denied his motion to suppress because Cravens had no reasonable suspicion to order Bridges out of the car, thus seizing him. *People v. Bridges*, 2017 IL App (1st) 143539-U, 25. Because a properly granted motion would have led to the suppression of the only evidence of a defaced firearm, Bridges further argued that his conviction should have been reversed. *Bridges*, 2017 IL App (1st) 143539-U at 25. The appellate court found that Cravens did have reasonable suspicion to order Bridges out of his SUV, in particular reasonable suspicion that Bridges was presently armed. See *id.* at 30-31. On March 28, 2017, Bridges filed a petition for rehearing. That petition was denied on March 31st.

¹ The trial court also found that Bridges had no Fourth Amendment standing as to the 9mm handgun. (R. GG83). The appellate court did not consider this argument, instead affirming on the merits.

Reasons for Granting the Petition

I. This court should grant the petition for a Writ of certiorari because the appellate court did not address People v. Thomas, 2016 IL 141040 in its analysis.

The court will find that there was no basis upon which to order Bridges out of his SUV, and reverse Bridges conviction based on the trial courts erroneous denial of his motion to quash arrest and suppress evidence.

In Thomas, officers received a citizen tip that a man had placed a gun into his backpack and was walking down 80th Place in Chicago. Thomas, 2016 IL App (1st) 141040 at

5. One of the officers approached the defendant, announced his office, and the defendant continued to walk up the stairs of the front porch of a residence.

The officer did a protective patdown at which time the defendant dropped the backpack hit the porch, so he picked it up - this led to the defendant grappling with the officer for the backpack. The officer threw the backpack to his partner, and while attempting to detain the defendant, heard his partner say "gun".

The trial court denied the defendant's motion to quash arrest and suppress evidence. Thomas, 2016 IL App (1st) 141040 at 10. This Court reversed. Of particular

relevance to Bridges's case, this Court noted a tip that contains a mere allegation that someone possesses a gun, without further indication of illegal activity, is insufficient to justify a Terry stop because that tip no longer contains any independent indicia of criminal activity. See *id.* at 29-30 (relying on *People v. Aguilar*, 2013 IL 112116, 19-21). Officer Craven's mere hunch that Bridges was concealing a gun could not provide him with reasonable suspicion because Bridges's possession of a gun, without more evidence, is not a crime.

Because Craven's belief that Bridges might have been hiding a gun is an insufficient basis upon which to suspect criminal activity, the State is left to rely on Craven's concern for his safety—in fact, the applicability of the officer safety exception has been the primary dispute in this case. (St. Br. at 12-17; 20-21) (Reply Br. at 2-5).

Pursuant to *Thomas*, the State must rely on this exception because there were no facts available to Craven's that would lead him to reasonably suspect criminal behavior. As argued in the briefs, the officer safety justification also fails. This Court should consider *People v. Thomas* in its analysis, find that there was no basis upon which to order

Bridges out of his SUV, and reverse Bridges's conviction based on the trial courts erroneous denial of his motion to quash arrest and suppress evidence.

II. This court should grant the petition for a Writ of Certiorari to clarify its decision in People v. Colyar, 2013 IL 111835, and make explicit that a police officer may only make a legal Terry stop if he has reasonable suspicion of criminal activity, not a mere hunch that a suspect may be armed.

This Court should grant the petition for a Writ of Certiorari to unify its fractured view of the rule announced by Arizona v. Johnson, 555 U.S. 323 (2009). Johnson bases its entire analysis on the proposition that the standards for a seizure and a search are distinct. The Supreme Court thus indicated that a police officer may only proceed to a protective frisk if the person he is frisking has already been lawfully seized on suspicion of criminal activity. Two members of this Court have already recognized this critical difference. People v. Colyar, 2013 IL 111835, 108-115 (Burke, J. dissenting, joined by Freeman, J.) (The Supreme Court has made clear that two conditions must be

met for a stop and frisk to comport with the fourth Amendment, not one.") (Johnson, 555 U.S. at 326)

In Colyar, this Court collapsed the inquiry on the back end and upheld a Terry frisk that was conducted under the guise of officer safety, without reasonable suspicion to support the initial Terry stop. See Colyar, 2013 IL 111835 at 52. In Bridges's case, the appellate court has erroneously collapsed the inquiry in the opposite way and upheld Bridges's seizure on the front end, holding that he was lawfully seized to protect "officer safety," even without a finding of the reasonable suspicion of criminal activity required to justify that seizure. See People v. Bridges, 2017 IL App (1st) 143539-U, 25-31. This erroneous contortion of the two-step Terry inquiry has taken hold in published decisions of the appellate court relying, not on the majority's decision in Colyar, but on a concurring opinion of only one Justice of this Court. See e.g., People v. Evans, 2017 IL App (4th) 140672, 34-40 (relying principally on Colyar, 2013 IL 111835 71, 74 (Thomas, J. concurring)). A majority of this Court has not expressly applied Arizona v. Johnson's clear holding that the police must have reasonable suspicion of criminal activity to justify a Terry stop before they can legally perform

any search. This case presents this Court with that opportunity. This Court should grant petition to adopt the views of the dissenting Justices in Colyar following the clear rule of Johnson, and answer the following question: whether an officer may seize a defendant, without any suspicion of criminal activity, based only on a hunch that the defendant armed.

III. This Court should grant the petition for a Writ of certiorari and reverse the judgment of the appellate court where under any standard Officer Cravens lacked the suspicion necessary to seize Bridges.

Officer Craven's seizure of Bridges was unreasonable under Terry. Terry Bridges was lawfully parked in his own SUV, waiting outside his aunt's house for her to finish cooking Sunday dinner.

A baseless hunch is not imbued with the factual support merely because an officer has regular experience arriving at hunches. An officer's experience in conducting roadside investigations is only relevant as it provides context to surrounding facts, known to the officer at the time he acts. The appellate court's order, affirming the

trial court's denial of Bridges's motion to suppress, elevates mere hunch to absolute fact and in doing so distorts an officer's limited authority given to him by *Terry v. Ohio*, 392 U.S. 1 (1968), beyond recognition.

Officer Craven's order to Bridges, to get out of his car, was a seizure that was unsupported by any indication that Bridges was committing a crime or that he was a threat to Craven's safety. The appellate court's order dispenses with any need for officers to rely on objective fact. This Court should not condone such an approach.

Both the United States and Illinois constitutions protect a citizen's right to be free from unreasonable seizures. U.S. Const., amend. IV; Ill. Const. 1970, art. I, 6; *Terry v. Ohio*, 392 U.S. 1, 8-9 (1968); *People v. Colyar*, 2013 IL 111835 at 31; see also *Heien v. North Carolina*, — U.S. — 135 S. Ct. 530, 536 (2014) ("As the text [of the Fourth Amendment] indicates and we have repeatedly affirmed, 'the ultimate touchstone of the Fourth Amendment is reasonableness.'" (Quoting *Riley v. California*, — U.S. —, 134 S. Ct. 2473 (2014)). In the context of an investigative detention, or Terry seizure, reasonableness requires that an officer have, not an "inchoate or unparticularized suspicion or hunch," but reasonable inferences drawn from articulable

facts. See *Terry*, 392 U.S. at 27. It is this requirement of factual support that the appellate court elided.

- a. At the time that Bridges was ordered out of his SUV, Officer Cravens had no reason to suspect that Bridges had committed, was committing, or was going to commit a crime.

Prior to Craven's approach to Bridges's SUV, he was not aware of any facts that would lead to a reasonable suspicion that criminal activity was afoot. Cravens had, just prior to arriving on the scene, been approached by an unknown woman who told him that "there was a gray Infiniti SUV parked around the area of Jackson and Western occupied by two male occupants that did not live in the area." (R. 647). The only other information that she offered was that the SUV had been parked there for a while. (R. 647). A tip from an unknown citizen informant must not just reliably predict identifying information, it must actually assert that something illegal is taking place. *People v. Henderson*, 2013 IL 114040, 26 ("the tip must be reliable in its assertion of illegality, not just in its tendency to identify a determinate person.") (Quoting *Florida v. J.L.*, 529 U.S. 266, 272 (2000)). Here, the citizen that approached Cravens made no assertion that anything illegal was taking place and her "tip" to Cravens

cannot support any suspicion that Bridges was committing or had committed a crime.

Cravens did not claim that he observed criminal activity when he arrived in the area where Bridges was parked. He testified that the SUV was parked properly and that there were no loud noises coming from it. (R. GG64). He pointed to no other indicia that criminal activity was afoot. In fact, the only fact that he gave for suspecting that Bridges might have a gun was a quick movement Bridges made as if he were reaching toward the backseat of the SUV. (R. GG53).

That movement lasted for a matter of seconds. (R. GG53). While a furtive movement, in conjunction with additional facts, may be sufficient to support reasonable suspicion of criminal activity, such movements are not sufficient on their own. *People v. Smith*, 2015 IL App (1st) 131307, 29 (citing *People v. Creagh*, 214 Ill. App. 3d 744, 747-48 (1st Dist. 1991); *People v. Collins*, 53 Ill. App. 3d 253, 255 (5th Dist. 1977)). Thus applying the ~~correct~~ standard and requiring reasonable suspicion that he was committing a criminal offense.

As discussed in Argument II, *supra*, this Court should grant petition for writ of certiorari and find that a defendant may not be seized based solely on a

purported concern for officer safety; rather, the officer must have reasonable suspicion of criminal activity. Applying that standard here, no facts known to Officer Cravens at the time he ordered Bridges out of the SUV rose to the level of reasonable suspicion. This Court should grant petition, clarify the standard, and reverse the judgment of the appellate court.

b. At the time that Bridges was ordered out of his SUV, Officer Cravens did not have reasonable suspicion that he was armed; and, even if such suspicion initially existed, it was dispelled by Cravens's subsequent interactions with Bridges.

This Court should grant petition for writ of certiorari where, regardless of the legal standard applied, the appellate court erroneously found that Cravens had reasonable suspicion that Bridges was armed and, thus, a potential threat to his safety. In *Terry* itself, the court described an officer's authority to conduct a protective search as "narrowly drawn." 392 U.S. at 27. It must not be based on "his inchoate and unparticularized suspicion or 'hunch,' but [on] the specific reasonable inferences which he is entitled to draw from the facts in light of his experience." This Court has adopted similar limitations on this doctrine. See *Colyar*, 2013 IL 111835 at 39 ("The [protective]

search is permissible only when the officers possess a reasonable belief, based on specific and articulable facts and reasonable inferences from those facts, that the individual was dangerous and could gain control of a weapon.") (Relying on *Long*, 463 U.S. at 1050). The appellate court's order elevates Craven's unparticularized hunch to the level of specific and articulable facts.

This case is notably distinct from *Colyar*, in which this Court upheld a seizure and a frisk based on a concern for officer safety. The officer in *Colyar* had far more than his own subjective hunch that his safety was in danger. (Def. Reply at 4-5). Specifically, the officers in *Colyar* observed a large bullet in plain view which allowed them to draw the reasonable inference that a gun was also present. 2013 IL 111835 at 44. For similar reasons, *Bridges*'s case is different from *Michigan v. Long*, 463 U.S. 1032 (1983), which announced the rule that this Court applied in *Colyar*. The officers in *Long* observed the defendant driving erratically and saw a knife in plain view on the passenger seat once the car eventually crashed. *Long*, 463 U.S. at 1035-36. In this case, Craven had no other facts, beyond the purported quick movement, to justify his order for *Bridges* to get out of his car. There was no objective fact that gave

Cravens a reasonable belief that Bridges was armed and, in fact, Cravens explicitly admitted that he didn't know what Bridges was doing when he moved. (R. GG66).

The appellate court also erroneously failed to take into account another key limit to an officer's reliance on a claimed fear for his safety. An officer may not rely on concern for his safety as a justification for a violation of the Fourth Amendment where any reasonable fear that he may have had is dispelled by further interactions with the defendant. See *Colyar*, 2013 IL 111835 at 37 (noting that an officer's narrowly drawn authority to conduct a protective search only survives if "nothing in the initial stages of the encounter serves to dispel [the officer's] reasonable fear for his own or other's safety.") (Citing *Terry*, 392 U.S. at 30-31) (alteration in *Colyar*).

In this case, Cravens did not behave as a reasonable officer, who legitimately feared for his safety, would behave. Cravens purportedly observed Bridges's quick movement as he was walking up to the driver's side door. (R. GG53). However, after seeing that movement, Cravens did not unholster his own weapon nor did he immediately order Bridges out of the car.

Rather, Cravens engaged Bridges in a conversation at the driver's side window. During this conversation, Bridges had the time to produce his license, the insurance for his car, and to explain (in response to Cravens' questions) that he was parked in the area because he was visiting his aunt. (R. 6654, 65-6). Any fear that Cravens had for his safety was dispelled by Bridges's compliance with Cravens's informational questioning and his requests for Bridges's license and insurance. Bridges was nothing but compliant and had a lawful basis for being parked where he was. The appellate court's order engages with none of these facts, relying instead on Cravens's unparticularized hunch. This Court should grant the petition for a Writ of certiorari and find that Officer Craven's seizure of Bridges was unreasonable no matter the legal standard applied.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Terry Bridges

Date: 12/10/17