

No. 18-9102

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES

Supreme Court, U.S.
FILED
APR 10 2019
OFFICE OF THE CLERK

Michael Bazan — PETITIONER
(Your Name)

vs.

Robert Whitfield — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

U.S. Court of Appeals For The Fifth Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Michael Bazan
(Your Name)

1992 Helton Rd.
(Address)

Pampa, TX 79065
(City, State, Zip Code)

(806) 665 7070
(Phone Number)

QUESTION(S) PRESENTED

1) Was Petitioner's 4th & 14th U.S. Const. Amendments Violated When Kelly Williamson Conducted A Warrantless Search Of Petitioner's Vehicle??

2) Did The Court Of Appeals Err In Denying Petitioner's Excessive Force Claims??

3) Did The Court Of Appeals Correctly Review Evidence In Light Most Favorable To The Non-Moving Party??

4) Has Petitioner Raised A Genuine Issue Of Material Fact Whether His Constitutional Rights Were Violated If The Evidence Was Viewed In Light Most Favorable To The Non-Moving Party?

5) Did The Court Err In Dismissing Bazan's Complaint??

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:

Michael Bazan
Plaintiff,

v.

Robert Whitfield, of Yoakum County Sheriff Department, Plains, Texas;

Kelly Williamson of Yoakum County Sheriff Department Plains, Texas;
Defendants,

TABLE OF CONTENTS

OPINIONS BELOW.....	1
JURISDICTION.....	
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	
STATEMENT OF THE CASE	
REASONS FOR GRANTING THE WRIT	
CONCLUSION.....	

INDEX TO APPENDICES

APPENDIX A U.S. Courts Of Appeals For The Fifth Circuit

APPENDIX B U.S. District Court For The Northern District Of Texas Lubbock Division

APPENDIX C U.S. District Court For The Northern District Of Texas Lubbock Division

APPENDIX D U.S. District Court For The Northern District Of Texas Lubbock Division

APPENDIX E (Exhibit A) Motion To Dismiss Possession Of Marijuana Two (2) Oz Or Less Drug Free Zone & DWLI with Previous Conviction

APPENDIX F (Exhibit B) Motion To Dismiss Evading Arrest

APPENDIX G (Exhibit C) Yoakum County District Attorney Bill Helwig Statement In Previous A.B. Of Defendant's Sworn Statement

APPENDIX H (Exhibit D) Defendant's Lawyer Statement Of Case From A.B.

TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
<u>Federal</u>	
Ricciuti v. NYC Transit Authority 124 F.3d 173 (2nd Cir. 1997)	Pg 4
<u>State</u>	
Monroe v. Koelzer, 457 F.2d 897, 893-94 (3rd Cir. 1972)	Pg 5
Sacier v. Katz, 533 U.S. 194, 7011 H.S.Ct. 2151, 150 LEd2d 272	Pg 6
U.S. v. Agurs, 427 U.S. 97, 104, 96 S.Ct. 7392, 7397, 486 Ed. 2d 342 (1976)	Pg 5
Timothy Scott v. Victor Harris 550 U.S. 377, 127 S.Ct. 1769, 167 LEd2d 686 (2007) Lexus	Pg 6

STATUTES AND RULES

4th And 14th Amend. U.S. Const. & Texas Const. Art. 149	Pg 6
Texas Code of Crim. Proc. Art. 38.23	Pg 7
Violation of Texas Transportation Code Section 547.305	Pg 4
42 U.S.C. § 1983 U.S. Ex. Rel.	Pg 5
Fruit of the Poisonous Tree Doctrine (1948) Criminal Procedure	Pg 6

OTHER

Exhibit A (Appendix E) May 10, 2014 Dismissals Possession of Marijuana 202 Arrest Drug Free Zone	Pg 12
Exhibit B (Appendix F) Sept. 6, 2014 Dismissals Evading Arrest	Pg 13
Exhibit C (Appendix G) Bill Helwig D.A. Volakum County Statement	Pg 14
Exhibit D (Appendix H) A.B.	Pg 15

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 A 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 B 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 _____ 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 _____ 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.

JURISDICTION

For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was January 10, 2019.

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 _____.
A copy of that decision appears at Appendix _____.

A timely petition for rehearing was thereafter denied 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. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Texas Statutes

Transportation Code Section 547.305 Restriction On Use Of Lights

Texas Code Of Crim. Proc. Art. 38.03

Texas Transportation Code 545.104B

Federal Statutes

U.S. Constitutional Amendment. Fourten

U.S. Constitutional Amendment. Fourth

STATEMENT OF THE CASE

Defendant Kelly Williamson is Not Entitled to Qualified Immunity Because In The First Separate Incident That Occurred On May 10, 2014, That Started With Another Deputy Shawn Brazier Where Bazan Was In His Drive Way Of His Residence Where He Was Detained. The Deputy Did Not Conduct A Traffic Stop (i.e. I Was Not Detained Out Of My Vehicle) Bazan Was Not Cited For The Underlying Offense Of Violation Of Texas Transportation Code Section 547.305 Restriction On Use Of Lights Which Brazier Drove To My House For.

As I Was Being Held Till Deputy Kelly Williamson Arrived He Then Asked For Consent To Search My Vehicle In My Back Yard After Not Getting It He Seized Me By Placing Me In Restraints And Placing Me In His Patrol Car. At That Point Williamson Had Already Conducted A Search Of My Person In Which He Illegally Seized My Phone And The Key To My El Camino.

At That Point If I Was Under Arrest For A Traffic Violation Or The Justification Offense Of DWI w/ Previous Conviction. My Vehicle Which I Was Not Detained From And Was Parked On Private Property In My Back Yard Should Have Never Been Searched, Because I Did Not Give Consent To The Warrantless Search Of My Vehicle. Upon Inventory Kelly Williamson Seized An I-Phone And One Ounce Of Marijuana From The Vehicle.

Then On July 29, 2015 The Possession Of Marijuana Two (2) Oz. Or Less Drug Free Zone Cause No. 11490 And Driving While License Invalid With Previous Conviction Cause No. 11491. Said Cause Numbers Being The Basis Of The May 10, 2014 Incident Were Dismissed On 7-29-15 Due To Insufficient Evidence. See Motion To Dismiss In Cause Numbers 11490 & 11491. Exhibit # (Appendix E)

In A. B. 09 (6) Petitioner's Are Attempting To Deceive This Court By Way Of A False Statement Of Yoakum County District Attorney Bill Helwig In Which He States The Charges Were Not Dismissed Because The District Attorney Determined There Was Misconduct By The Officers On The Scene. Bill Helwig Stated: After Michael Bazan Pleading Guilty To The Felony Offense Of Fleeing From Deputy Robert Whitfield, I Made The Decision To Dismiss The Other Charges Against Michael Bazan Relating To May 10, 2014 Arrest. I Exercised My Prosecutorial Discretion In Doing This. By Dismissing Those Charges I (in) No Way Made A Determination Or Came To A Conclusion That The Arrest Of Michael Bazan On May 10, 2014 Was Improper. Exhibit C (Appendix C)

Petitioner's Are Lying And Committing The Act Of Perjury And Falsification Of Evidence By Inconsistent Statements.

Plaintiff Alleges That Summary Judgment Is Precluded On The Grounds, Of Qualified Immunity, Malicious Prosecution & Police Officers Creating False Evidence & Initiating Prosecutions Against Plaintiff's Predicated On The Manufactured Evidence. See Ricci v. NYC Transit Authority 124 F.3d 123 (2nd Cir. 1997).

Police Officers Lied And Fabricated Evidence And Such Association Must Be Carefully Reviewed As Wrong, And If The Police Lie While Acting In Their Official Capacity, They Also Violate The Public Trust Courts Must Ensure That Such Serious Accusations Receive Appropriate Scrutiny Lest The Courts Appear To Endorse Such Official Misconduct.

On Sep. 6, 2014, Yoakum County Deputy Robert Whitfield Used Excessive

Force In Making An Arrest Of Bazan By Deliberately Running Bazan Over With His Police Cruiser And Knowingly Fabricating Evidence By Altering The Dash Cam Video And Knowingly Fabricating A Police Report And Distributing Said False Evidence To Prosecutors And This Honorable Court.

Deputy Robert Whitfield Is Not Entitled To Qualified Immunity When A Police Officer Creates False Information Likely To Influence A Jury's Decision And Forward That Information To Prosecutors, He Violates The Accused's Constitutional Right To A Fair Trial And The Harm Occasioned By Such Unconscionable Action Is Redressable In An Action For Damages Under 42 U.S.C. § 1983 United States Ex Rel. Moore v. Kaelzer, 457 F.2d 892, 893-94 (3rd Cir. 1972).

A Police Officer's Fabrication And Forwarding To Prosecutors Of Known False Evidence Works An Unacceptable "Corruption Of The Truth-Seeking Function Of The Trial Process," United States v. Hauris, 427 U.S. 97, 104, 96 S.Ct. 2392, 2397, 48 L.Ed. 2d 342 (1976)

Deputy Robert Whitfield Incident Report Is Fabricated Because He Stated That He Observed A GMC Yukon Westbound On E. Dogwood Denver City Texas. As The Vehicle Approached The Stop Sign For Westbound Traffic At The Intersection Of S. Washington, The Vehicle Came To A Stop And The Activated The Passenger Side Turn Signal To Indicate A Right Turn, On The Northbound South Washington Lane.

Deputy Whitfield's Incident Report And The Video From His In Dash Cam Clearly Contradicts One Another. Denver City Police Investigator's Report Also Contradicts Deputy Whitfield's Report e.g. Deputy Whitfield Is Lying In His Report:

First There Is No Possible Way That The Incident Of Sep. 6, 2014 Began On E. Dogwood And S. Washington Street. The Video And The Diagram Of Denver City Police Investigator Show That The Incident Began At The Stop Sign, 500 Blk Santa Fe. The Video Will Show The White Yukon Activate The Driver Side Turn Signal Then Turn Left On To The 200 Blk Of S. Jaycee, The White Yukon Makes A Right Hand Turn On To The 500 Blk Of E. Cedar The House Bazan Gets Ran Over In Front Of IS On The Passenger Side Of The White Yukon Traveling Westbound As I Make It To The Second Blk The Video Cuts Off. When The Video Cuts Back On The House I Explained Above When I Made The Right Hand Turn On 500 Blk Of E. Cedar IS Now On The Driver's Side Of The White Yukon And Bazan Is Getting Ran Over.

Exhibit D A.B. pg 11 After Deputy's Vehicle Hits The Appellant The Video Shows A Bizarre Sequence Of Events: (Appendix H)

Appellee's Choice Of Wording Should Be Judicially Noted Because Bizarre's Definition - Is Strikingly Unconventional And Far Fetched In Style Or Appearance. American Heritage Dictionary Of The English Language.

It's Funny That Appellee's Choice Of Word Means Far Fetched, Which Bolsters Bazan's Claim That Appellee Created False Evidence By Altering The In Dash Cam Video And Incident Report

REASONS FOR GRANTING THE PETITION

In Support Of Question One:

Kelly Williamson Did In Fact Violate Bazan's 4th & 14th Amend. U.S. Const. & Texas Const. Art. 1 § 9 With An Illegal Search Terry V. Ohio Emphasized The Importance Of Balancing "The Need To Search (Or Seize) Against The Invasion Which The Search (Or Seizure) Entails" To Determine Whether A Search Or Seizure Is Lawful.

Had It Been Lawful The Charges Would Have Not Been Dismissed Due To Insufficient Evidence On July 29th 2015. See Exhibit A (Appendix A) Bazan Should Have Been Awarded Judgement On This Suit But Due To Perjury Of The Yoakum County District Attorney Bill Helwig. See Exhibit C (Appendix C). By Tying The Two Separate Incidents Together When In Fact The Courts Ruled On The Dismissal Of The Above Case And Second Incident 5 Months From One Another See Exhibit A (Appendix A) And Exhibit B (Appendix B) Which Was The Evading Arrest Involving Deputy Robert Whittfield.

Fruit Of The Poisonous Tree Doctrine (1948) Criminal Procedure. The Rule That Evidence Derived From An Illegal Search Arrest, Or Interrogation Is In Admissible Because The Evidence (The "Fruit") Was Tainted By The Illegality (The "Poisonous Tree")

In Support Of Question Two:

The Courts Error In Denying Bazan's Excessive Force Claim Because Robert Whittfield Did In Fact Intentionally Run Bazan Over With His Police Cruiser And Made No Attempt In Arresting Bazan Even After Injuring Him.

Therefore Violating His Constitutional Rights Timothy Scott V. Victor Harris 550 U.S. 372, 175 Ct 1769, 167 LEd 2d 686 (2007) Lexis. If Officer Engaged In High Speed Pursuit Did Not "Seize" The Claimant The Fourth Amend. Would Not Apply And The Use Of Force Claim May Be Actionable Only Under The Substantive Due Process Component Of The Fourteenth Amend.

Deputy Whittfield Never Intended To Arrest Bazan He Intentionally Ran Bazan Over And Tried To Repeatedly Try To Do It Again This Is Why Bazan Intentionally (Ran) Evaded On Foot. This Was An Argument Bazan Raised In Court And Was Awarded A Dismissal. See Exhibit B (Appendix B)

In Support Of Question Three:

Court Of Appeals Did Not View Evidence In Light Most Favorable To The Non-Moving Party Saucier V. Katz 533 U.S. 194, 2011 S.Ct. 2151, 150 LEd 2d 272 (a) Qualified Immunity Requires Resolution Of A Threshold Question:

Taken In Light Most Favorable To The Party Asserting The Injury, Do The Alleged Show The Officer's Conduct Violated A Constitutional Right?

Yes Both Deputy's Did In Fact Violate Bazan's Constitutional Rights Under The 4th & 14th Amend. By Means Of Illegal Seizure's One Resulting In Dismissal Of Offenses And Other Resulting In Plaintiff Getting Run Over Then Running For His Life With A Dismissal As Well. See Exhibit A & B (Appendix E & F)

In Support Of Question Four:

Petitioner has raised genuine issues of material facts Tex. Code Of Crim. Proc. Art. 38.23 states in part: "No Evidence Obtained By An Officer Or Other Person In Violation Of Any Provisions Of The Const. Or Laws Of The State Of Texas Or The Const. Of The U.S. Of America Shall Be Admitted In Evidence Against The Accused On The Trial Of Any Criminal Case."

But yet the lower courts have been ruling in the defendants favor of all these motions and evidence which was all obtained unlawfully and falsified do to there acts of perjury due to there wantonness to prosecute Bazan. And there disregard to the courts by way of falsifying police reports dash cam video by way of editing and not viewing evidence in light most favorable to the non-moving party.

In Support Of Question Five:

Bazan feels the court err in dismissing his complaint because there are factual material evidence and not just an oral agreement oral only into explaining the facts which Bazan's constitutional violations were in fact violated. Had the courts viewed the evidence it would have been for the benefit of the plaintiff.

Conclusion

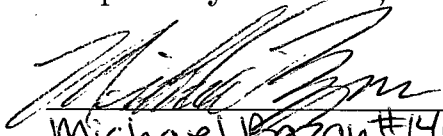
Both Deputy Are Not Entitled To Qualified Immunity Because They Each Acted Unreasonably And My Constitutional Rights Were Violated The Defendants Have Presented False Evidence And knowingly falsified A Police Report A Dash Cam Video Which Creates A genuine issue of material fact as to any of the allegations.

wherefore, premises considered, Appellant respectfully prays that the court reverse the dismissal of his claim cause there is good merits in his claim was already set for pretrial once see: Appendix C But Bazan is not a lawyer but is seeking justice. He has already done the sentence opposed on him can not get back time so would like to be compensated for the physical and mental anguish that Bazan has already endured. Petitioner humbly seeks retribution in the amount of \$750,000.00 And Any And All Relief This Court Deems Just.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,


Michael Bazan #1467471

Date: 4-9-19