

24-6998

No. \_\_\_\_\_

ORIGINAL

FILED  
MAR 04 2025

OFFICE OF THE CLERK  
SUPREME COURT, U.S.

---

IN THE SUPREME COURT OF THE UNITED STATES

Eric Ellis

*Petitioner,*

Vs

CITY OF WHITE SETTLEMENT ET AL

---

ON PETITION FOR WRIT OF CERTIORARI

TO THE

UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

---

Eric L. Ellis

*/s/Eric L Ellis*

*8539 Melissa Drive*

*Fort Worth, Texas 76108*

*EricLamarEllis@gmail.com*

*3/2/2025*

#### QUESTIONS PRESENTED FOR REVIEW

1. Whether the warrantless seizure of a suspect's children without probable cause during a traffic stop violates the Fourth Amendment.
2. Whether an arrest for a misdemeanor that is punishable only by a fine constitutes an unreasonable seizure under the Fourth Amendment when all passengers are seized and taken to jail.
3. Whether an officer whom has probable cause to arrest a "driver" also has probable cause to seize and arrest all passengers.

## TABLE OF CONTENTS

|   |        |
|---|--------|
| QUESTIONS PRESENTED.....  | page 2 |
| TABLE OF CONTENTS.....  | page 3 |
| TABLE OF AUTHORITIES.....   | page 4 |
| PARTIES TO THE PROCEEDINGS.....   | page 5 |
| OPINION BELOW.....  | page 6 |
| JURISDICTION OF THE SUPREME COURT OF THE UNITED<br>STATES.....            | page 6 |
| CONSTITUTIONAL PROVISIONS<br>INVOLVED.....                                | page 6 |
| STATEMENT.....  | page 6 |
| REASONS FOR GRANTING THE WRIT.....  | page 7 |
| CONCLUSION .....  | page 8 |
| DECLARATION OF SERVICE.....   | page 9 |
| APPENDIX A.....FIFTH CIRCUIT OPINION AFFIRMING DISMISSAL W<br>PREJUDICE   |        |
| APPENDIX B.....DISTRICT COURT FINAL JUDGEMENT DISMISSAL WITH<br>PREJUDICE |        |

**TABLE OF AUTHORITIES**

Atwater v City of Lago Vista, 532 U.S. 318 (2001)..... page 8

(Arizona v. Gant, 556 U.S. 332 (2009)..... page 9

No. \_\_\_\_\_

---

**IN THE SUPREME COURT OF THE UNITED STATES**

**Eric Ellis**

**Vs**

**CITY OF WHITE SETTLEMENT ET AL**

---

**ON PETITION FOR WRIT OF CERTIORARI**

**TO THE**

**UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT**

---

Eric Ellis asks that a writ of certiorari issue to review the opinion and judgment entered by the United States Court of Appeals for the Fifth Circuit on January 30th 2025.

**PARTIES TO THE PROCEEDING**

The caption of the case names all the parties to the proceedings in the court below.

Eric Ellis is the petitioner.

CITY OF WHITE SETTLEMENT are the respondents.

## OPINION BELOW

The per curiam opinion of the court of appeals is attached to this petition as Appendix A.

## JURISDICTION OF THE SUPREME COURT OF THE UNITED STATES

The opinion and judgment of the court of appeals were entered on January 30, 2025. This petition is filed within 90 days after entry of judgment. See SUP. CT. R. 13.1. The Court has jurisdiction to grant certiorari under 28 U.S.C. § 1254(1).

## CONSTITUTIONAL PROVISIONS INVOLVED

The Fourth Amendment to the United States Constitution provides in relevant part:

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause[.]

## STATEMENT

In December 2022 Eric Ellis was traveling in a car with his 2 children when he pulled over by City of White Settlement Officers Payton Wyly and James Stewart. This traffic stop was the 2<sup>nd</sup> time Officer Payton Wyly had stopped Eric Ellis for the same offense within a month. In response to Eric Ellis asking questions about the stop, Officer James Stewart inserted his hand inside Eric Ellis's car to open the door forcing Eric Ellis out of the vehicle. Once Eric Ellis was removed from the vehicle he was immediately arrested and taken to City of White Settlement jail for misdemeanor offenses to the Texas Transportation Code. Subsequent to Eric Ellis's arrest, City of White Settlement Officers Payton Wyly, James Stewart

and Brad Buckowski searched Eric Ellis's vehicle seizing property and Ellis's two children. Eric Ellis's children and their property were then taken to City of White Settlement jail.

#### **REASONS FOR GRANTING THE WRIT**

##### **I. THE COURT SHOULD GRANT CERTIORARI TO DECIDE WHETHER A POLICE OFFICER CAN ARREST A SUSPECT'S CHILDREN SUBSEQUENT TO HIS ARREST FOR A MISDEMEANOR FINE-ONLY OFFENSE TO THE TEXAS TRANSPORTATION CODE.**

###### **a. The Question Presented Is of Exceptional Importance and cannot Be Answered Without This Court's Review**

This case presents the question whether the Fourth Amendment permits the government, without probable cause, to search, seize and arrest all passengers in a vehicle during an arrest of a driver for a misdemeanor traffic offense punishable only by a fine.

The Court has previously granted certiorari to resolve similar questions about the arrests of a driver for misdemeanor offenses only punishable by a fine, see *Atwater v City of Lago Vista*, 532 U.S. 318 (2001). The Court should similarly grant certiorari to resolve the question presented in this case.

###### **b. The Decision Below Is Erroneous.**

i. There was no probable cause to search Ellis's vehicle.

ii. There was no probable cause to arrest and/or seize Ellis's passengers subsequent to his arrest.

In upholding the warrantless seizures of Ellis's children during his arrest for fine only misdemeanor offenses to the Texas Transportation Code, the district court ruled that the Officers had probable cause. The fifth circuit court of appeals affirmed the district court's judgement without explanation.

c. The officers didn't have a lawful basis to search the car nor to seize and arrest all passengers. The driver isn't able to access the car at the time of the search, nor can the officers reasonably expect to find evidence of the crime for which they arrested him: driving on a suspended license. (Arizona v. Gant, 556 U.S. 332 (2009).)

d. The questions presented warrants reversal.

The Supreme court has already answered the questions presented and denial of this cert would be a change in clearly established laws.

#### CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Eric L Ellis

3185075030

EricLamarEllis@gmail.com

3/2/2025