

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

JAMES KING,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

On Petition for A Writ of Certiorari
to the United States Court of Appeals for the Third Circuit

PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED

1. WHETHER THE THIRD CIRCUIT ERRED IN CONCLUDING THAT KING LACKED A REASONABLE EXPECTATION OF PRIVACY IN THE PACKAGE ADDRESSED TO “ALEXANDIRA SALCEDO” AT 655 PINE CONE DR., AND THEREFORE KING LACKED STANDING TO CHALLENGE THE SEARCH?

LIST OF PARTIES

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

RELATED CASES

Undersigned Counsel is not aware of any related cases.

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**PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES
COURT OF APPEALS FOR THE THIRD CIRCUIT**

Petitioner, James King, by and through his undersigned attorney, respectfully petitions for a writ of certiorari to review the judgment entered in this case by the United States Court of Appeals for the Third Circuit.

OPINION BELOW

The opinion of the United States Court of Appeals for the Third Circuit appears in the Appendix.

JURISDICTION

On June 17, 2025, the Court of Appeals entered its judgment affirming the judgment of the District Court. The jurisdiction of the Supreme Court is invoked under 28 U.S.C. § 1254(1).

RELEVANT CASE LAW HOLDING

The pertinent case law holdings include this Courts' rulings in Rakas v. Illinois, 439 U.S. 128 (1978) and United States v. Jacobsen, 466 U.S. 109 (1984).

STATEMENT OF THE FACTS

James King was convicted in the Middle District of Pennsylvania of: Conspiracy to Distribute Methamphetamine in violation of 21 U.S.C. § 846. Appx A - 2.

The Pennsylvania State Police ("PSP") investigation that started after PSP received a tip from an informant that a package containing methamphetamine would be shipped via United Parcel Service ("UPS") to 655 Pine Cone Drive East, Mifflinburg, Pennsylvania. Appx A - 2. The informant in this case was Michelle Cunningham. At the time of the PSP investigation in this case, Michelle Cunningham resided at 655 Pine Cone Drive East, Mifflinburg, Pennsylvania with Christopher Brown, Christopher Brown's girlfriend, and their newborn child. Appellant did not reside at 655 Pine Cone Drive East, Mifflinburg, Pennsylvania. Id.

On October 4, 2019, PSP received information from Michelle Cunningham that the package of methamphetamine was scheduled to be delivered that day to 2655 Pine Cone Drive East, Mifflinburg, Pennsylvania via UPS. Appx A - 2. On October 4, 2019, PSP Trooper Zachary E. Martin made arrangements with UPS for PSP to intercept the package from the UPS delivery

driver. Id. Trooper Martin met the UPS delivery driver in a vacant parking lot in the Mifflinburg, Pennsylvania area, and PSP made arrangements for a narcotics detection canine to meet at the UPS truck. Appx A - 3.

Deputy Eric Leaman of the Union County Sheriff's Office and his canine, Charlie, were called to assist PSP at the UPS truck on October 4, 2019. Appx 3 - A. When Deputy Leaman and canine Charlie arrived at the UPS truck, multiple packages were lined up across the back bumper of the truck for canine Charlie to sniff. Deputy Leaman testified that when he arrived at the UPS truck and the packages were on the rear bumper, "the front doors were open and the back door was open" and Deputy Leaman "didn't have a very good feeling about getting an indication". Because of this, law enforcement asked the UPS driver to put the packages back inside the UPS truck and close the truck up for about 40 minutes to "build its odor back". Id. After this period of time, Deputy Leaman had canine Charlie search the UPS truck, and canine Charlie did not indicate there were narcotics in any of the packages on the UPS truck. Id.

After the negative canine sniffs at the UPS truck, Trooper Martin nonetheless seized the suspected package from the UPS driver, and Trooper Martin drove the package in his vehicle to the State Police Barracks in Milton, Pennsylvania. Appx A - 3. Trooper Martin then placed the package in a holding room at the State Police Barracks, where the package sat for about forty-five (45) minutes until Deputy Leaman arrived with his canine. Id. Deputy Leaman had canine Charlie search office space at the police barracks prior to putting canine Charlie in the holding room with the package. Id. Deputy Leaman testified that he "just kept hoping that Charlie doesn't hit on something else in those rooms because . . . with police stations, you never know what's going to be in there." Deputy Leaman and canine, Charlie, eventually went into the room with the suspected package, and the canine positively alerted to the package. Id.

Immediately thereafter, Trooper Martin submitted an application for a search warrant to Pennsylvania Magisterial District Justice Michael Toomey seeking to search the intercepted package. Appx A - 3. Trooper Martin did not disclose to Magisterial District Justice Toomey that there were negative canine alerts on the package while it was on the UPS truck. Id. The application for a search warrant was granted pursuant to Trooper Martin's statements contained in the application. Id. Trooper Martin immediately executed the search warrant and opened the package, which contained methamphetamine. Appx A - 4.

Appellant filed numerous pretrial motions before the district court. Appx A - 4. On June 21, 2021 and June 22, 2021, a suppression hearing was held by the district court regarding Appellant's pretrial motions. On July 29, 2021, the Government filed the Government's Post-Hearing Supplemental Brief opposing Appellant's pretrial motions. On July 30, 2021, Appellant filed a Supplemental Brief in Support of Omnibus Pre-Trial Motion. In the relevant part, Appellant's Supplemental Brief in Support of Omnibus Pre-Trial Motion challenged the validity of the search warrant seeking to search the suspected package, and requesting a Franks hearing, because of Trooper Martin's failure to include the negative canine sniffs at the UPS truck in the search warrant affidavit for the magistrate's consideration. Id.

On January 14, 2022, the district court issued an Order and Memorandum Opinion denying Appellant's request for a Franks hearing. On July 18, 2022, a jury trial commenced on the Indictment. On July 21, 2022, the jury found Appellant guilty of Count 1 and not guilty of Count 2. Appx A - 2.

On November 29, 2022, Appellant was sentenced to two-hundred-ten (210) months of incarceration. This timely writ followed.

REASONS FOR GRANTING THE PETITION

I. CERTIORARI SHOULD BE GRANTED BECAUSE THE COURT OF APPEALS FOR THE THIRD CIRCUIT ERRED IN AFFIRMING THE DISTRICT COURT RULING THAT KING LACKED A REASONABLE EXPECTATION OF PRIVACY IN THE UPS PACKAGE ADDRESSED TO 655 PINE CONE DR.

“The proponent of a motion to suppress has the burden of establishing that his own Fourth Amendment rights were violated by the challenged search or seizure.” United States v. Pettaway, 429 F. App’x 132, 134 (3d Cir. 2011). An individual’s “capacity to claim the protection of the Fourth Amendment depends ... upon whether ... [he] ha[d] a legitimate expectation of privacy in the invaded place.” Rakas v. Illinois, 439 U.S. 128, 143 (1978). The “capacity to claim the protection of the Fourth Amendment depends not upon a property right in the invaded place but upon whether the person who claims the protection of the Amendment has a legitimate expectation of privacy in the invaded place.” Pettaway, 429 F. App’x at 134. quoting Rakas v. Illinois, 439 U.S. 128 (1978).

In affirming the district court's ruling, the Third Circuit’s opinion stated that King was “neither the sender nor addressee of the package.” Appx A - 4. “While King may have been one of ‘the intended recipients of the package, he cannot claim an expectation of privacy in a package sent under a fake name to someone else’s address.” Id. at 5-6.

Respectfully, King’s position is that he did have a reasonable expectation of privacy in the package sent through UPS addressed to “Alexandria Salcedo” at 655 Pine Cone Dr. because the package is an “effect” within the meaning of the Fourth Amendment to which he had a property and possessory interest, and therefore, the Third Circuit was incorrect in determining that “he cannot claim an expectation of privacy in a package sent under a fake name to someone else’s address.” Id. at 6.

The Supreme Court has recognized that a “wrapped parcel ... delivered to the private

freight carrier ... [is] unquestionably an ‘effect’ within the meaning of the Fourth Amendment. United States v. Jacobsen, 466 U.S. 109, 114-15 (1984). “Letters and other sealed packages are in the general class of effects in which the public at large has a legitimate expectation of privacy ...” Id. at 115. An individual who has a “possessory interest in an item recovered during the search of another’s property is a factor, but not determinative, in finding a legitimate privacy expectation.” Pettiway, 429 F. App’x at 135. “Property rights, while not determinative of an expectation of privacy, remain conceptually relevant to whether one’s expectations are ‘legitimate’ or ‘reasonable’.” United States v. Givens, 733 F.2d 339, 341 (4th Cir. 1984). “Both senders and addressees of packages or other closed containers can reasonably expect that the government will not open them.” United States v. Villarreal, 963 F.2d 770, 774 (5th Cir. 1992). “This court has made clear that individuals may assert a reasonable expectation of privacy in packages addressed to them under fictitious names. Id.

King contends that he maintained both a possessory and property interest in the package; while each, standing alone, may be insufficient to establish a reasonable expectation of privacy, their combination is sufficient to support his claim that he had a reasonable expectation of privacy in the package.

King had a possessory interest in the package for several reasons. First, once King arrived at 655 Pine Cone Dr., he entered the trailer where he opened and inspected the package for a tracker. This would ordinarily only be done by someone who was acting as if the item were theirs to inspect or control. Next, after searching the package for a tracker, King removed the package from the trailer and placed it in the trunk of his white Camaro. Thus, King had actual physical control over the package. Placing his package in his car is not merely incidental; it shows King’s intent to secure and handle the package as if it were his own. Finally, while the

package remained in the trunk of his white Camaro, he drove away, thereby exercising even greater exclusive control and dominion over it.

Furthermore, King asserts that he had a property interest in the package. During the suppression hearing on June 21, 2021, Trooper Martin testified that “it was clear that [King] and Mr. Brown were the intended recipients of this package.” Trooper Martin’s testimony confirms the intent for the package to be delivered to King, thereby establishing that King was the beneficial owner of the contents, giving him a property interest. King’s property interest is further established by his own testimony on June 22, 2021, during the suppression hearing, when he stated, “I’m stating here on the record that I was indeed aware a package was coming, and I am indeed aware that the package was coming to me.” Therefore, King’s knowledge of the package, expectation of receipt, and the entitlement to possession upon delivery establish a legitimate property interest in the package even before it arrived.

Finally, King respectfully disagrees with the Third Circuit Court and argues that simply because he was neither the “sender” nor the “addressee”, that does not automatically mean he does not have a reasonable expectation of privacy in the package. Appx A - 6. In United States v. Pierce, the Fifth Circuit states, “Arguably, a defendant who is neither the sender nor the addressee of a package has no privacy interest in it, and accordingly, no standing to assert Fourth Amendment objections to its search.” United States v. Pierce, 959 F.2d 1297, 1303 (5th Cir. 1992). The use of the word “arguably” by the court suggests that such a limitation is conditional and fact-dependent, rather than absolute. Furthermore, the Third Circuit cites United States v. Koenig, stating that since the defendant in Koenig was neither the “sender nor the addressee of the package”, he had no privacy right in it, and therefore, no standing. United States v. Koenig, 856 F.2d 843, 846 (7th Cir. 1988). However, the court stated, “We need not decide whether a

privacy interest could be recognized given proof of an ownership interest in the contents of the parcel and a showing of the ability to control the parcel once delivered.” Id. The court’s statement strongly suggests that there may be circumstances in which a combination of ownership and control is sufficient to give rise to a plausible, reasonable expectation of privacy. Furthermore, in Koenig, the defendant “never asserted that he was part owner of the drugs in transit. To the contrary, he has consistently argued that he was never a part of the conspiracy to distribute...” Id. King’s case is materially different, as King asserted that he was an intended owner of the package and had the right to control the package once delivered, as explained above.

CONCLUSION

WHEREFORE, based on the foregoing arguments and authorities, this court should grant the petition for writ of certiorari.

Date: September 12, 2025

Respectfully Submitted,

/s/ Christopher Opiel

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CERTIFICATE OF SERVICE

I, Christopher R. Opiel, hereby certify that on this 12th day of September 2025, I served copies of the Motion for Leave to Proceed in Forma Pauperis and the Petition for a Writ of Certiorari in the above-captioned case were mailed, first class postage prepaid, to the following:

Solicitor General of the United States
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I certify that all parties required to be served have been served.

Date: September 12, 2025

Respectfully Submitted,
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CERTIFICATIONS

I, Christopher R. Opiel, Esq., hereby certify that:

1. I am an attorney appointed under the Criminal Justice Act of 1964.
2. The text of the documents electronically filed with the Court are identical to the text of the paper copies mailed to the Court.
3. A virus check was performed on the electronic documents with AVG software, and the documents are virus free.
4. This filing contains 2,780 words.
5. On September 12, 2025, one copy of the foregoing Petition for Writ of Certiorari was placed in the United States mail, first class, postage pre-paid addressed to: U.S. Attorney's Office, MDPA, Sylvia H. Rambo United States Courthouse, 1501 N 6th Street, 2nd Floor, P.O. Box 202, Harrisburg, PA 17102.
6. On September 12, 2025, ten copies of the same were placed in the United States mail, first class, postage pre-paid, address to: Supreme Court of the United States, Office of Clerk, 1 First Street NE, Washington, D.C. 20543.

Date: September 12, 2025

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