

25-5939

No. _____

ORIGINAL

FILED

OCT 08 2025

OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE

SUPREME COURT OF THE UNITED STATES

MICHAEL G. CARSON

— PETITIONER

(Your Name)

vs.

JEFF HOWARD

— RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

MICHIGAN SUPREME COURT

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

PETITION FOR WRIT OF CERTIORARI

MICHAEL G. CARSON

(Your Name)

4533 W. INDUSTRIAL PARK DR. (KCF)

(Address)

KINCHELOE, MICHIGAN 49788

(City, State, Zip Code)

N/A

(Phone Number)

QUESTION(S) PRESENTED

ISSUE 1

DOES THE MICHIGAN SUPREME COURT'S DECISION CONFLICT WITH THE U.S. SUPREME COURT'S CASELAW, WHEN THEY OVERTURNED THE MICHIGAN COURT OF APPEALS FINDING THAT HELD; "...THE DEFENDANT WAS DENIED HIS SIXTH AMENDMENT RIGHT TO THE EFFECTIVE ASSISTANCE OF COUNSEL WHERE, DEFENSE COUNSEL FAILED TO FILE A PRE-TRIAL MOTION TO SUPPRESS THE CONTENTS OF THE CELL PHONE, WHERE THE SEARCH WARRANT WAS DEFECTIVE BECAUSE THE 'PARTICULARITY' REQUIREMENTS OF THE WARRANT WAS OVERBROAD AND FAILED TO PROVIDE PROBABLE CAUSE FOR EACH OF THE PHONE CONTENTS SOUGHT TO BE ADMITTED AT TRIAL, AND THEREBY VIOLATED THE FOURTH AMENDMENT OF THE U.S. CONSTITUTION".

THE DEFENDANT SAYS:

"YES"

THE STATE SAID:

"NO"

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:

RELATED CASES

PEOPLE-V-CARSON, 2024 MICH APP LEXIS 1235

PEOPLE-V-CARSON, 2025 MICH LEXIS 1402

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

WHITELY-V-WARDEN, 401 US 560; 91 SCT 1031;
28 L.Ed.2d 306 (1971)

BIVENS-V-SIX UNKNOWN NAMED AGENTS OF FED BUREAU OF NARCOTICS,
403 US 388; 91 SCT 1999; 29 L.Ed.2d 619 (1971)... ..

PEOPLE-V-HUGHES, 506 MICH 512; 958 NW2d 98 (2020).....

STRICKLAND-V-WASHINGTON, 466 US 668; 104 SCT 2052; 80
L.Ed.2d 674 (1984)

STATUTES AND RULES

28 U.S.C. § 2101(c), (d)

SUP. CT. R. 13:1

OTHER

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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 A to the petition and is

☒ reported at PEOPLE-V-CARSON, 2025 MICH LEXIS 1402; or,

☐ has been designated for publication but is not yet reported; or,

☐ is unpublished.

The opinion of the MICHIGAN APPEALS court appears at Appendix B to the petition and is

☐ reported at PEOPLE-V-CARSON, MICH APP LEXIS 1235; 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 7/31/2025.
A copy of that decision appears at Appendix A.

☐ 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

4TH AMENDMENT OF THE U.S. CONSTITUTION:

6TH AMENDMENT OF THE U.S. CONSTITUTION.

U.S. AMENDMENT IV

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, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

U.S. AMEND VI

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witness against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

STATEMENT OF THE CASE

Defendant was convicted by Jury. A Summary of the case is as followed:

The victim in this case decided to downsize his personal property in his home. He knew that the defendant was good at selling merchandise online. So he asked the defendant to sell some of his property that was inside his home. In the home, the victim had two safes. One of the safes contained old coins. The other safe contained approximately 59 to 63 thousand dollars in cash, in a yellow bank money strap, among other things.

In September or October of 2019, he discovered that the money and other valuables were missing from the safe, and the defendant and his girlfriend were the only people who had access to the safes. Believing the defendant stole his property, he filed a police report with the police.

Subsequently, on or about February 26, 2020, the police executed an arrest warrant and arrested the defendant in his home. One of the deputy's on the case had advised that, "if the defendant had a cell phone, to seize it because it might be beneficial and useful." Thus, the defendant's cell phone was confiscated when he was arrested.

On October 21, 2020, the defendant was subsequently found guilty of, Safe Breaking, Larceny of more than 20 Thousand dollars, Receiving and Concealing stolen property w/ a value over 20 thousand dollars, and Larceny in a Building. Defendant was also convicted of four counts of Conspiracy on each count above. Lastly, the defendant was sentenced as a fourth degree habitual offender.

The defendant was sentence to 10 to 20 years, 9 to 20 years and 3 years to 15 years of incarceration. All of defendant's sentences were ran concurrently. Defendant was also ordered to pay \$80, 010.00 in Restitution, along with \$130.00 to Crime Victim Right. The defendant continues the appeals of his

REASONS FOR GRANTING THE PETITION

The issue herein warrants this Court to grant discretionary review because the issue is important to the public interest. As such, it will provide guidance to the Courts as to what specific evidence is necessary to provide probable cause to seize and go through the contents of a cell phone, searching for evidence of a crime.

In the case sub-judice, the crime under investigation involves a larceny from the home of the victim. After obtaining an arrest warrant, the defendant was arrested at his home. During the arrest, the police observed a cell phone on a table and asked the defendant, "is that your phone." To which the defendant replied "yes." The issue relevant to this petition is, "...If the police don't have any information to provide a reason to suspect a persons cell phone is relevant to a crime. Does the police have probable cause to seize, investigate and hold information from the phone to present at a criminal trial.?"

In WHITELEY-V-WARDEN, 401 US 560, this court held, "The affidavit for a search must contain adequate supporting facts about the underlying circumstances to show a nexus that probable cause exist for the search of the phone. Id. at 564.

Furthermore, in BIVENS, (infra), quoting HUGHES, the Court stated, the fourth amendment confines the officer that executes the search warrant to the bounds set by the warrant. Id. at PEOPLE-V-HUGHES, 506 MICH 512, 535; 958 NW2d 98 (2020)

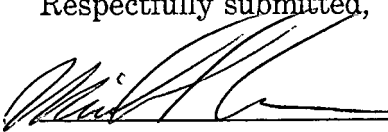
In this case, the cell phone was seized without a warrant and was not the product of an incident to arrest. In CHIMEL-V-CALIFORNIA, 395 US 752; 89 SCT 2034; 23 L.Ed.2d 685 (1969), this Court stated that, "the seizure of property within a

dwelling is 'unlawful' without a warrant, regardless of the amount of probable cause." Again, the defendant's cell phone was not on his person. It was in the room where the defendant was arrested. Defense Counsel's failure to file a pre-trial motion to suppress the contents of the cell phone as fruits of the unlawful seizure, was deficient performance because it allowed incriminating evidence to be admitted in the defendants trial. Lastly, it was prejudicial because the Prosecutor also argued that the contents of the cell phone provided evidence of the defendants guilt. cf. STRICKLAND-V-WASHINGTON, 466 US 668; 104 SCT. 2052; 80 L.Ed.2d 674 (1984) This Court should grant Certiorari.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Date: 10-6-2025