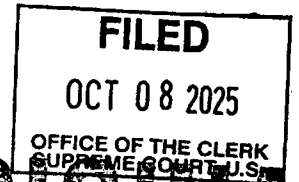


25-6083

No. _____

IN THE

SUPREME COURT OF THE UNITED STATES



ORIGINAL

Rolando Midder — PETITIONER
(Your Name)

vs.

United States of America — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals for the Eighth Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Rolando Midder
(Your Name)

846 NE 54 Terrace (Coleman II)
(Address)

Coleman, FL, 33521-1034
(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

Does it call for an exercise of this courts supervisory power when the question of what constitutes a sufficient showing that "social media evidence" is authentic if theres Third party access on record and due to a lack of settled caselaw and a yet to be determined legal standard of review does this constitute an issue that has not been, but should be settled by this court when multiple appeals courts are expressing this concern?

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

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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 U.S. v. Midder, 139 F.4th 649, No. 23-3041; 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☐ is unpublished.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☐ is unpublished.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 _____ 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☐ is unpublished.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 June 4, 2025.

☐ 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: July 10, 2025, 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

STATEMENT OF THE CASE

On June 27th 2022 Appellant Rolando Midder was arrested without a warrant in which the next day on the 28th a Complaint was filed alleging the sex ~~trafficking~~ trafficking of a minor in the United States District Court for the district of Nebraska-Omaha. The Complaint filed the next day pertained to an alleged statement taken by a female who was in custody after being involved in a traffic stop in Council Bluffs, Ia. This statement which was taken was not recorded nor was a formal statement taken. June 27th 2022 the day of Rolando Midder's warrantless arrest there was a phone in his possession which is the basis of his actual conviction

The Facts of the Alleged Offenses

The alleged victim in Midder's case did not testify in trial nor at the suppression hearing which was conducted in March of 2023, being since the court ruled her as Available to testify, no hearsay exception was applicable in trial. The governments case rested on ① social media and phone data evidence ② extrensic uncharged 404(b) testimony of Eran Peatrowsky ③ ~~and~~ erroneous hearsay identification of alleged victim by Detectives. Counsel raised improper interview techniques employed when the alleged victim was arrested for unrelated charge the day Mr. Midder was arrested. ~~and~~ There also being a recording of Rolando Midder stated the day he was arrested

that the phone was borrowed and not his, as well as during his custodial interrogation him stating he borrowed the phone that was taken from him.

The nurse who conducted an exam of the alleged victim the day she was involved in a traffic stop, 2 weeks before Midder's arrest on June 27th, stated during trial testimony that the female she examined "appeared to be" in her 30's (Tr. Vol 2, 141) The person she examined was not cooperative and therefore no photographs that would normally be part of an exam were taken (Tr. Vol 2, 144, 145) The examinee refused to disclose her sex history and to answer other questions as a part of the protocol for the examination. (Tr. Vol 2, 167)

During cross examination of the nurse Midder's counsel elicited that during examination of the alleged victim that she was in possession of 3 phones, but when she was arrested the day Rolando Midder was arrested for an unrelated matter Midder's counsel elicited that the alleged victim was in possession of 2 phones.

The government conceded that in there attempted sting operation in an effort to obtain some direct evidence of that essential contention failed to lead to any evidence due to the fact it was

a different female that they were going to meet so the sting was called off. So the case rested on the posting of an ad from an email address loweslisa3@gmail.com. The government rested on the fact that the phone was in ~~the~~^{Midder's} possession and the 404(b) testimony of Eran Peatrowsky stating she would message ~~Mr. Midder~~ Mr. Midder on a Lisa Lowes Facebook account that was connected to the account that posted Ads on skipthegames.com dating site. Exhibit 24, purported to be the alleged victims notes, makes it clear that she had access to the Skipthegames account as well as the email and phone since the email and password was written down by her in this exhibit. Without that improperly admitted evidence from the phone and social media and other account activity on it the government had no case.

The Procedural History

Mr. Midder filed a ineffective assistance of counsel motion 6 months after his arrest in which he filed in December 2022, ~~in which~~. The court granted the motion which was

based on the fact that the court appointed counsel requested a 90 day extension to file any pretrial motions, so it gave Midder until the end of November to file any motions. Court appointed counsel Julie Hanson did not converge by phone or in person until after the deadline passed even though Midder sent multiple letters and voice messages addressing what pretrial motions he felt needed to be filed. When she met with Mr. Midder she never discussed any of those concern nor any other pretrial motions she felt needed to be filed. In December 2022 when the court granted the Ineffective Assistance motion the newly appointed counsel which was Mr. James Regan met with Mr Midder in January and stated after ~~Midder~~ he went through his discovery including the recorded interrogation of the alleged victim he didn't understand why I was arrested. So Mr. Regan filed Suppression motion on the grounds I was arrested without probable cause, due to there being no recorded statement or written statement from the alleged victim. The court denied the motion stating they give credit to Agent Amber Manns' affidavit stating the alleged victim incriminated Midder.

On June 5th 2023 this case continued and trial started and ended in a jury verdict of guilty that was handed out June 9th 2023.

In the beginning of September Mr. Midder was sentenced to life imprisonment on the sex trafficking of a minor charge and 30yrs on each of the 2 production of child Pornography charges §1591 and ~~§1591~~ §2242.

An Appeal was submitted ~~and~~ November 22, 2024 and the decision was filed June 4, 2025 (U.S. v. Midder, 139 F.4th 649 8th cir June 4th 2025)

In which Midders counsel raised argument on the authentication of phone data and social media evidence and argued in the opening brief about how exhibit 24 clearly showed the female detained on June 13, 2022 had written on paper the email address and password used on the skipthegames account, and the appeals court in there decision never addressed the issue of there being third party access.

REASONS FOR GRANTING THE PETITION

① Does it call for an exercise of this court's supervisory power when the question of what constitutes a sufficient showing that "social media evidence" is authentic has not been fully developed due to the lack of settled caselaw and a yet to be determined legal standard of review; does this constitute an issue that has not been, but should be, settled by this court when multiple appeals courts are expressing this concern?

In Mr. Middlers trial in which no testimony from the alleged victim and the only evidence used to convict him was "social media" evidence that was clearly being used by an unauthorized third party resulted in a wrongful conviction that violated his constitutional due process and right to a fair trial. "The authentication of social media evidence in particular presents some special challenges because of the great ease with which a social media account may be falsified or a legitimate account may be accessed by an imposter." (citing United States v. Browne, 834 F.3d 403, 65 V.I. 425 (3d Cir. 2016)) Multiple appeals courts are expressing concern with the lack of a legal standard of review and/or a lack of settled caselaw to find if social media evidence is genuine or authentic. From the 2nd Cir. in which this court stated there's "no hard and fast rule exists as to what type of ~~information~~ information is necessary to authenticate an exhibit." (United States v. Pettway, U.S. Dist. Lexis 176848, 107 Fed. R. Evid. Serv. 801 2nd Cir. Oct. 15, 2018) Lexis pg 19 pg 9

In the 9th circuit District Court just this year in February this court expressed concern when a petitioner was filing for Ineffective Assistance of Counsel and the court's decision was "Given the lack of settled caselaw on 'Authentication of Social media evidence', counsel could not have acted deficiently in failing to know or meet the yet to be determined legal standard of review" (Damm v. Santoro, U.S. Dist Lexis 47996; 2025 LX 115606 (9th cir. Feb 27, 2025) lexis pg 26-28.

With this being the issue at hand with no legal standard of review. Federal Courts are left with no set in stone way to authenticate social media when the issue of third party access is totally disregarded when that proof is on record for the courts to clearly see in Midders case (exhibit 24), and leads to a wrongful conviction.

So I'm praying the courts address this long awaited issue to finally be settled.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Rolando Midder Rolando Midder

Date: October 5th 2025