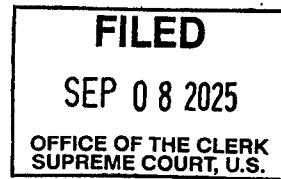


25-688



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

In The  
Supreme Court of the United States

Veronica W. Ogunsula,

*Petitioner*

v.

Trooper First Class Michael Warrenfeltz,

*Respondent*

On Petition For Writ Of Certiorari  
To The United States Court of Appeals for the Fourth  
Circuit

PETITION FOR WRIT OF CERTIORARI

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CORRECTED

QUESTION PRESENTED

1. Does a police officer observing an undisputed legal act(s) or something that is not illegal, without more, provide probable cause or a reasonable individualized, particularized suspicion that the person is committing or has committed, or will eminently commit a traffic violation or crime?
2. Are officials or law enforcement officers covered by or entitled to a defense of Qualified Immunity whether or not they provide a truthful justification for the act or an "after-the-fact" justification?
3. Is a Roseboro vs. Garrison or Rule 12/56 notice required for Pro Se litigants at the Summary Judgment stage of a case?

## PARTIES TO THE PROCEEDING

The parties to this civil matter are Veronica W. Ogunsula, Petitioner, a citizen of the United States and resident of the State of Maryland. Petitioner is Pro Se.

The Respondent is Trooper First Class (TFC) Michael Warrenfeltz, a law enforcement officer of the Maryland State Police. TFC Michael Warrenfeltz is represented by the Attorney General of Maryland, Anthony G. Brown and Assistant Attorney General Amy E. Hott.

Respondents/Defendants to the original civil complaint in the U.S. District Court of Maryland include the Maryland State Police Superintendent who was represented by the Maryland Attorney General's office as stated above. Other parties/Defendants were the Warden of Harford County Detention Center and unnamed correctional officers at the Harford County Detention Center. The Harford County parties/defendants were represented by the Office of Harford County Department of Law led by the County Attorney. The current County Attorney is Jefferson Blomquist and Margaret K. Hartka is the Deputy County Attorney.

## LIST OF ALL PROCEEDINGS

Ogunsula vs Maryland State Police et al, No. 1:20-cv-02568-ELH, U.S. District Court for the District of Maryland. Summary Judgment Order entered on May 14, 2024 on behalf of the Defendant. Motion To Amend/Alter—Order denying Motion entered July 30, 2024.

Ogunsula vs Michael Warrenfeltz, No. 24-1845, U.S. Court of Appeals for the Fourth Circuit. Decision affirmed and Judgment entered on March 6, 2025. Court Order denying Motion for Rehearing and Rehearing En Banc on April 29, 2025.

TABLE OF CONTENTS

QUESTION PRESENTED.....	i
PARTIES TO THE PROCEEDING .....	ii
LIST OF ALL PROCEEDINGS .....	ii
TABLE OF CONTENTS .....	iv
TABLE OF AUTHORITIES.....	vii
DECISIONS BELOW .....	1
JURISDICTION .....	2
STATUTORY PROVISIONS INVOLVED.....	2
INTRODUCTION.....	3
<u>IMPACT</u> —Traffic Stops In The United States ...	11
STATEMENT OF THE CASE .....	13
ARGUMENT.....	17
<u>THE BASIS FOR A TRAFFIC STOP:</u> <u>PROBABLE CAUSE</u> .....	17
<u>IMPACT</u> —Defining Probable Cause in Traffic Stops.....	18
<u>THE BASIS FOR A TRAFFIC STOP:</u> <u>REASONABLE SUSPICION</u> .....	24
<u>IMPACT</u> : TYRE NICHOLS AND SANDRA BLAND.....	25
11 <sup>th</sup> Amendment Immunity .....	32
Roseboro vs. Garrison or Rule 12/56 Notice .....	32
CONCLUSION .....	33

## TABLE OF CONTENTS

## APPENDICES

APPENDIX .....	1A
DECISIONS BELOW .....	5A
UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT ORDER Rehearing and Rehearing En Banc.....	5A
UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT ORDER and OPINION .....	7A
UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MARYLAND ORDER Motion to Amend or Alter Judgment .....	10A
UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MARYLAND Memorandum Opinion Motion to Amend or Alter Judgment .....	11A
UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MARYLAND ORDER Summary Judgment .....	40A
UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MARYLAND Memorandum Opinion Summary Judgment .....	41A
STATUTES .....	93A
Fourth Amendment .....	93A
Fourteenth Amendment .....	93A
42 U.S.C. § 1983 .....	95A

2017 Maryland Code Transportation Title 21 -	
Vehicle Laws -- Rules of the Road Subtitle 11 -	
Miscellaneous Rules	
§ 21-1124.1. ....	96A
§ 21-1124.2. Communications Traffic Safety Act	
MD Transp Code § 21-1124.2 (2017) .....	97A
Rule 56. Summary Judgment .....	99A
Rule 59. New Trial; Altering or Amending a Judgment .....	102A
GRAPHIC DIAGRAM OF TRAFFIC STOP of Veronica Ogunsula .....	104A

## TABLE OF AUTHORITIES

**Cases**

Ashcroft vs Iqbal, 129 S.Ct. 1937, 2009 .....	17
Beck vs. Ohio (379 U.S. 89, 85 S. Ct. 223, 1964.....	5
Bell Atlantic vs Twombly, 550 U.S. 544, 2007 .....	17
Brendlin vs. California, 551 U.S. 249, 2007 .....	6
Conley vs Gibson, 355 U.S. 41, 1957 .....	17
Delaware v. Prouse, 440 US 648,1979 .....	6,7,8,23
Dunaway v. New York, <i>supra</i> , at 207 209.....	20
Florida v. Royer, 460 US 491, 1983 .....	19
Heien vs North Carolina, 135 S.Ct. 530, 2014.....	9
Milla vs. Brown, 109 F.4th 222, July 19, 2024 .....	5,26
Miranda v. Arizona, 384 U.S. 436, 1966 .....	17
Pearson v. Callahan, *311 555 U.S. 223, 231, 129 S.Ct. 808,	
172 L.Ed.2d 565, 2009 .....	32
Roseboro vs Garrison, 528 F.2d 309, 1975 .....	32
See United States vs Martin, 411 F.3d 998, 1001, 8th	
Circuit, 2005 .....	9
See United States vs McDonald, 453 R.3d 958, 961, 7th	
Circuit, 2006 .....	11
Terry vs Ohio U.S. 1, 17, 1968.....	3,8, 19,34,
U.S. vs Hassan El, 5 F.3d at 730, 4 <sup>th</sup> Circuit, 1993 .....	22
U.S. vs Weaver, 433 F. 3d 1104 9th Circuit, 2006.....	9
United States v. Riddle, 9 U.S. 311, 1809 .....	12
United States vs Chanthasouxat, 342 F.3d 1271, 1279, 11th	
Circuit, 2003 .....	9
United States vs. Brignoni-Ponce.....	21
United States vs. Ferguson, 8 F.3d 385, 392, 6 <sup>th</sup> Circuit,	
1993, <i>en banc</i> .....	22
United States vs. Lopez-Soto, 205 F.3d 1101, 1106, 9th	
Circuit, 2000 .....	9
United States vs. Sokolow, 490 U.S. 1, 12-13, 1989 .....	6

US v. Williams, 740 F. 3d 308 - Court of Appeals, 4th Circuit, 2014 .....	9,22
US vs. McDonald, 453 F.3d 958, 962, 7th Circuit, 2006.....	20
Whren vs United States, 517 U.S. 806, 1996.....	4, 7, 22

### **Statutes**

Fourth Amendment.....	3, 19, 34
Fourteenth Amendment .....	2, 34
42 U.S.C. § 1983 .....	16
2017 Maryland Code: Transportation Title 21 Vehicle Laws	
-- Rules of the Road Subtitle 11, Micscellaneous Rules	
§ 21 1124.1 and § 21-1124.2 of the Maryland	
Transportation Article, 2017.....	18
28 U.S. C. § 1254 (1).....	2

**DECISIONS BELOW**

The District Court's Order *granting* Summary Judgment to the Defendant, TFC Michael Warrenfeltz, is available at ECF #129 and #130, No. 1:20-cv-02568-ELH, Ogunsula vs Maryland State Police et al, and reprinted at Petition Appendix (App.) 39A. The District Court's Order *denying* the Plaintiff's Motion To Amend/Alter is available at ECF #135 and ECF #136, No. 1:20-cv-02568-ELH and reprinted at App. 9A.

The U.S. Court of Appeals for the Fourth Circuit Court's Order *affirming* the decision of the District Court is available at ECF #24, No. 24-1845, Veronica Ogunsula vs Michael Warrenfeltz and reprinted at App. 6A. The Fourth Circuit's Order denying the Petition for Rehearing and Rehearing En Banc is available at ECF #29, No. 24-1845, Veronica Ogunsula vs Michael Warrenfeltz and reprinted at App. 4A.

## **JURISDICTION**

The Fourth Circuit entered judgment on March 06, 2025. Petitioner filed a timely petition for Rehearing and Rehearing En Banc, which was denied on April 29, 2025. This Court's jurisdiction is involved under 28 U.S. C. § 1254 (1).

## **STATUTORY PROVISIONS INVOLVED**

Pertinent statutory provisions are the Fourth Amendment and the Fourteenth Amendments, and the Maryland Law, MD Transportation Code § 21-1124.1 and § 21-1124.2 (2017). They are reproduced at App. 103A.

## INTRODUCTION

The Fourth Amendment provides that “the right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated....” (4<sup>th</sup> Amendment, US Constitution) This inestimable right of personal security belongs as much to the citizen on the streets of our cities as to the homeowner closeted in his study to dispose of his secret affairs. For, as [this Court] has always recognized,

**“No right is held more sacred, or is more carefully guarded, by the common law than the right of every individual to the possession and control of his own person, free from all restraint or interference of others, unless by clear and unquestionable authority of law. (Terry vs Ohio, 392 U.S. 1, at 9, 1968 quoting the Supreme Court in Union Pacific Railway Company vs. Botsford, 141 U.S. 250, 251, 1891)**

This is what the Supreme Court stated in an opinion in 1891 and reaffirmed in its Terry vs. Ohio precedent case. Terry vs Ohio, establishes “...the role of the Fourth Amendment in the encounter on the street between the ‘citizen’ and the policeman investigating suspicious circumstances.” The Supreme Court said in Terry vs Ohio, (at 17) “whenever a police officer accosts an individual and restrains his freedom to walk away, he has ‘seized’ that person. (Terry vs Ohio U.S. 1, 17, 1968) That seizure is governed by the Fourth Amendment. The Terry case establishes the framework of the Fourth Amendment.

As we move to the portion of the framework that deals with drivers operating motor vehicles on the streets of any city or state within America, the controlling precedent case starts with Whren vs U.S. where the Terry Stop (i.e.,

investigative “stop” of a person as explained in Terry vs. Ohio) has been contoured for the traffic stop. In Whren vs. United States, this Court provided clarity or almost clarity on four things relevant to this case related to a police officer’s encounter with individuals who are operating a motor vehicle:

- 1) The traffic stop in the context of the Fourth Amendment;
- 2) What constitutes probable cause for a traffic stop as it relates to the enforcement of a State’s codified traffic laws;
- 3) The objective *reasonableness standard* required to intrude upon a driver’s Fourth Amendment rights; and
- 4) The relevance of the police officer’s state of mind as a motivation for the traffic stop or how the Court views pretextual traffic stops.

Firstly, the Supreme Court stated that the traffic stop was indeed a seizure governed by the Fourth Amendment: “Temporary detention of individuals during the stop of an automobile by the police, even if only for a brief period and for a limited purpose, constitutes a “seizure” of “persons” within the meaning of this provision.” (Whren vs United States, 517 U.S. 806, 1996) The traffic stop meets the required test of reasonableness when the officer has probable cause that a traffic violation has occurred.

Secondly, although other Circuits have been more precise, the Supreme Court did not *explicitly* define *what probable cause is as it relates to a traffic stop?* Under the Fourth Amendment, probable cause – amounts to more than a bare suspicion but less than evidence that an arrest warrant or

search warrant may be issued.<sup>1</sup> Probable cause is not based or judged on good faith.

“As emphasized in *Beck vs. Ohio* (379 U.S. 89, 85 S. Ct. 223, 1964): ‘If subjective good faith alone were the test, the protection of the Fourth Amendment would evaporate, and the people would be “secure in their persons, houses, papers and effects” only in the discretion of the police.’ The probable cause test, then, is an objective one; for there to be probable cause, then, the facts must be such as would warrant a belief by reasonable man.” Wayne R. LaFave & Jerold H. Israel, *Criminal Procedure* § 3.3 at 140 (2d ed. 1992)<sup>2</sup>

Reasonable suspicion is a particularized and objective basis, supported by specific and articulable facts for suspecting a person of criminal activity. Reasonable suspicion requires more than a mere hunch but less than proof beyond a reasonable doubt, demanding enough evidence to lead a reasonable person to believe that a crime occurred and the suspected person committed it.”<sup>3</sup>

The Fourth Circuit in a recent case, *Milla vs Brown*, admitted that “the Circuit’s case law is not uniform as to which combination of circumstances are sufficient to support a finding of reasonable suspicion”. However, the case went on to simply and plainly say that mere “reasonable suspicion” is not enough: to initiate a Terry stop requires a ‘particularized and objective basis for suspecting the particular person stopped of criminal activity.” (*Milla vs. Brown*, 109 F.4th 222, July 19, 2024 quoting *United States v. Feliciana*, 974 F.3d 519, 523, 2020)

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<sup>1</sup> *Probable Cause*, Black’s Law Dictionary, (8th Edition, 2004)

<sup>2</sup> *Id.*

<sup>3</sup> Law.com Legal Dictionary, <http://dictionary.law.com>

For any law enforcement action requiring probable cause or reasonable, articulable, particularized suspicion, it must exist before a specific action is taken by police that could violate the Fourth Amendment.

In *Delaware vs Prouse* (1979), the Court recognized that the “foremost method of enforcing traffic and vehicle safety regulations ...” is police officers “acting upon observed violations”. It emphasized that officers could not randomly stop drivers to just to check for documents like driver’s license if they had not observed a traffic violation or had “individualized, articulable suspicion” that a crime had occurred or was about to be committed without violating the Fourth Amendment. *The constitutional right of privacy does extend to a car’s driver and occupants.* (*Delaware vs. Prouse*, 440 U.S. 648, 1979) (See also *Brendlin vs. California*, 551 U.S. 249, 2007)

The Supreme Court in 1996 *Whren vs. United States* also explained that objective reasonableness was the controlling basis for justifying a lawful traffic stop and not the “actual [or subjective] motivations of the individual officers involved.” So, pretextual traffic stops are lawful under the Fourth Amendment as long as “the police have probable cause to believe [a motorist] has committed a civil traffic violation”. But, racial profiling is not lawful and a violation of the Fourteenth Amendment. (See *United States vs. Sokolow*, 490 U.S. 1, 12-13, 1989; citing *Terry vs Ohio*, 392 U.S. 1, 30, 1968; see also, *United States vs. Brignoni – Ponce*, 422 US 873, 1975) Accordingly, the central question remains: what provides the reasonable, objective basis for probable cause leading to a traffic stop for a traffic violation? Must the officer(s) observe or witness the violation? This Petition argues that the Supreme Court should explicitly state that an observed traffic violation provides probable cause for a traffic stop.

What this Court has stated is this, “acting upon observed [traffic] violations” is the primary legal justification for effectuating a traffic stop that does not intrude upon Fourth Amendment rights against unreasonable search and seizure. (See Whren, quoting Delaware vs. Prouse)

“The reasonableness standard usually requires, at a minimum, that the **facts** upon which an intrusion is based be capable of measurement against “an objective standard,” whether this be probable cause or a less stringent test. In those situations in which the balance of interests precludes insistence upon “some quantum of individualized suspicion, other safeguards are generally relied upon to assure that the individual’s reasonable expectation of privacy is not “subject to the *discretion* of the official in the field.

(Delaware vs Prouse 440 US 648

Here the Court emphasizes three things: 1) objective reasonableness; 2) the supremacy of the 4<sup>th</sup> Amendment; and 3) an intrusion on the 4<sup>th</sup> Amendment is not subject to the discretion of “the official” in the field.

This does not mean the officer has no discretion in whether to stop an individual or issue a warning or ticket. It means the officer does not have the discretion to act randomly when making traffic stops, or with deliberate disregard for 4<sup>th</sup> Amendment rights.

In determining the reasonableness of a “Terry Stop”, the Court disallowed an officer to rely on “inchoate and unparticularized suspicion or ‘hunch’. The officer must make specific reasonable inferences which [they] are

entitled to draw from the facts in light of [their] experience". (Terry vs. Ohio, 392 U.S. 1, 1968 )

In short, "probable cause" is based on observing or witnessing something that is in violation of the law. And reasonable suspicion requires *specific facts* related to a *specific situation* related to this *particular individual or vehicle*. "To insist upon neither an appropriate factual basis for suspicion directed at a particular automobile nor upon some other substantial and objective standard or rule to govern the exercise of discretion "invite[s] intrusions upon constitutionally guaranteed rights based on nothing more substantial than inarticulate hunches..." (Delaware vs Prouse 440 US 648, 1968 quoting Terry v. Ohio, 392 U. S., at 22.)

Even though this Court has not explicitly said that observing a traffic violation is probable cause for a traffic stop, some Circuits have stated this and have made it precisely clear:

"[W]hen an officer observes a traffic offense or other unlawful conduct, he or she is justified in stopping the vehicle under the Fourth Amendment." (United States vs. Ferguson, 8 F.3d 385, 392, 6th Circuit, 1993, en banc. See also, "Officers cannot make a traffic stop unless they have probable cause to believe a traffic violation has occurred or a reasonable suspicion of unlawful conduct based upon articulable facts—requirements which restrain police behavior." Cf Delaware v. Prouse, 440 U.S. at 661, 99 S. Ct. at 1400)

Also, the Fourth, Fifth, Sixth, Seventh, Eighth and DC Circuit have explicitly stated it in one form or another, "[W]hen an officer observes a traffic offense or other

unlawful conduct, he or she is justified in stopping the vehicle under the Fourth Amendment." (US vs Williams, 740 F. 3d 308, 4th Circuit, 2014; see also, Cummins, 920 F.2d 498 – Court of Appeals, 8th Circuit, 1990; U.S. vs Michael A Whren, 53 F.3d 371, 1995)

The Ninth Circuit disagreed and said in U.S. vs Weaver that "a traffic stop is permissible if an officer has reasonable suspicion to believe that a traffic violation or crime has occurred even if the officer has not observed the violation directly. (U.S. vs Weaver, 433 F. 3d 1104 9th Circuit, 2006) But the Ninth Circuit had earlier stated that when a traffic stop is not "**objectively grounded in the governing law**", a mistake of law "cannot justify the stop under the Fourth Amendment." (United States vs. Lopez-Soto, 205 F.3d 1101, 1106, 9th Circuit, 2000) The 11th Circuit came to the same conclusion. (United States vs Chanthasouyat, 342 F.3d 1271, 1279, 11th Circuit, 2003;)

The Eighth Circuit, however, held to the contrary stating that objective reasonable mistakes of either law or fact can support probable cause. (See United States vs Martin, 411 F.3d 998, 1001, 8th Circuit, 2005 ;) Addressing point three above, the Supreme Court provided a bright-line ruling in Heien vs North Carolina (2014) holding that *reasonable* mistakes of law or fact *can* justify a traffic stop under the Fourth Amendment *if* they are objectively reasonable. (Heien vs North Carolina, 135 S.Ct. 530, 2014)

Lastly, the officer's state of mind is not relevant in the justification for the traffic stop. The Whren case addresses and clarifies the Court's position on pretextual traffic stops—*stops* initiated where law enforcement officers have other *subjective motivations* for making the traffic stop. The Supreme Court made clear that pretextual traffic stops are valid under the Fourth Amendment. The subjective intent or motivation of the officer does not matter as long as

probable cause or reasonable suspicion provide an **objective** justification for the stop and existed before the traffic stop.

In the present case, this Petition focuses on only one aspect or part of the entire traffic stop by TFC Michael Warrenfeltz. That is the segment between Points 1 and 3 of the diagram showing Ms. Ogunsula's traffic stop by TFC Warrenfeltz. (See Graphic Diagram of Traffic Stop Appendix, 104) This segment determines and confirms whether the traffic stop was lawful and whether there was probable cause (an observed traffic violation) or reasonable individualized, particularized suspicion for the traffic stop and not the reason the officer later added to the incident police report as an addendum eight days later. Ms. Ogunsula, the Petitioner, argues that this traffic stop was unlawful from its inception. The Petitioner is not contesting the warrant that the officer found in the National Crime Information Center (NCIC) database as this is not the proper forum for that discussion. Further, the existence of the warrant has no bearing on the lawfulness of the traffic stop as it was allegedly discovered after the officer asked for and received the Petitioner's driver's license and checked the NCIC database.

The Petitioner is not arguing the officers state of mind or subjective motive for the traffic stop. The Whren precedent forecloses this argument.

Does the officer observing a legal act(s), without something more, constitute reasonable suspicion regarding a traffic violation? This is the question and it is important because, as stated in Delaware vs Prouse, "observing" violations is the primary enforcement method for law enforcement officers to ensure traffic and vehicle safety. The Seventh Circuit says no. "An officer cannot have a reasonable belief that a violation of the law occurred when the acts to which an officer points as supporting probable cause are not

prohibited by law." (See United States vs McDonald, 453 R.3d 958, 961, 7th Circuit, 2006) The Supreme Court's Heien vs North Carolina (2014) case does not affect this. It is a given that the "acts" must be true.

**IMPACT—Traffic Stops In The United States**

According to the Stanford Open Policing Project, on a typical day 50,000 drivers and more than 20 million motorists every year are pulled over by police. And while most of these interactions are mundane and without extraordinary circumstances, it is clear from the data that a disproportionate number of African Americans are stopped more routinely for traffic violations. Further, as is evidence by news reports, sadly a disproportionate number of African Americans have lost their lives and suffered adverse effects during routine traffic stops.

In an investigation by the New York Times found that between 2016 and 2021, police officers in the United States killed more than 400 **unarmed** drivers and/or passengers during traffic stops.<sup>4</sup> Black Americans were disproportionately represented among those killed by officers<sup>5</sup> Providing clarity from this Court regarding what is probable cause and reasonable suspicion for a traffic stop will provide clarity and notice to those who enforce traffic laws. It has the potential to significantly reduce the number of unarmed drivers and passengers who are killed in traffic stops. And it will improve public confidence that pretextual stops will not continue to be a misused tool that negatively impacts African Americans and other minorities disproportionately.

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<sup>4</sup> Why Many Police Traffic Stops Turn Deadly, Nick Oxford, David D. Kirkpatrick, Steve Eder, Kim Barker and Julie Tate, October 31, 2021, Updated November 30, 2021, The New York Times

<sup>5</sup> Police Traffic Stops Can Alienate Communities And Lead To Violent Deaths Like Tyre Nichols' – Is It Time To Rethink Them?, Derek Epp,, Megan Dias, The University of Texas at Austin, February 3, 2023,

With the proliferation of cameras (e.g., cellphone, bodycam, dashcams, etc.), it is easier now more than ever to provide evidence of traffic violations. About 98% of American adults own a cellphone.<sup>6</sup> In 2016, the last time a formal study was done, 70% of state police departments had either a dashcam, bodycam and/or both<sup>7</sup> Utilizing this readily available technology along with this Court providing clarity on what is probable cause for a traffic stop, can greatly impact the confidence the public has in everyday policing.

To sum it up, it has been more than 200 years since this Court has explicitly defined “probable cause”. (See *United States v. Riddle*, 9 U.S. 311, 1809) The Supreme Court has resisted explicitly defining probable cause and reasonable suspicion. However, given the large number of police interactions the public has on a daily and annual basis, the time has come to provide clarity for the traffic stop.

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<sup>6</sup> Pew Research Center data

<sup>7</sup> Body Cam data for police departments, 2016 study.

## STATEMENT OF THE CASE

The pertinent facts of the case involve Ms. Ogunsula travelling on 95 North in Maryland, beyond the Fort McHenry toll booth, on Wednesday, August 30, 2017. She was driving a 2017 Hyundai Santa Fe SUV. The vehicle was a prepaid rental from 8/24—8/31/2017. She was not speeding or driving in an otherwise unsafe manner. She was not breaking any Maryland traffic laws. She was driving in the far left lane, otherwise known as Lane 1. It was approximately 11:00 a.m. when the Plaintiff paid the toll and pass through the Fort McHenry toll booth.

A Maryland State Trooper, Michael Warrenfeltz who at this time was unknown to Ms. Ogunsula, pulled alongside her in a gray unmarked sedan with very dark tinted windows on all four doors for 5-15 seconds. However, she did not initially notice him because she was looking at a black Sony wired earbud that she had picked up from her lap or the center console. The earbud's size was similar to that of a small breath mint or lima bean. She had the earbud in her left hand and was glancing at it to determine if she was placing the correct earbud in her left ear.

As she was glancing at the earbud and simultaneously looking at the road in front of her, she noticed the gray sedan/car in her peripheral vision to her right, driving alongside her. She was a bit alarmed because the gray car was tracking her vehicle. She still had the earbud in her left hand as she glanced at the car several times. At this point the car pulled ahead and she could see that it was a police car because of the antennas on the back. She then checked her speed, she was definitely driving under the 65 miles per hour speed limit, and she continued on her way. Her cell phone was in the front passenger seat at this time and it was providing directions via the cellphone's GPS

application automated voice through the phone's speakers to her intended destination in New Jersey. At no point during this time did she handle her cell phone.

The next time she noticed the Trooper he was behind her. She then changed lanes by pulling into the Lane 2 to allow the Trooper to pass. However, he followed her over and turned his lights on to pull her over. She pulled her vehicle over to the side of the road. After they both stopped on the right shoulder, the Trooper walked to the car and asked her if she was using her cell phone. His question denotes that he did not see her handling the phone. He made an assumption that she was using the phone because he saw her with an earbud in her left hand. He asked for her license and registration. She provided him with her license and the rental car's registration. He then walked back to his vehicle. After about what felt like 20 minutes, she began to wonder what was taking so long and as she debated within her mind about approaching the Trooper's vehicle, but she was very cautious because the recent incidents of police shooting of unarmed motorists.

Soon thereafter the Trooper came back to her vehicle. The dialogue at this point turned rather contentious on the part of the Trooper Warrenfeltz. He instructed her to get out of the vehicle and she inquired if there was a problem. As he questioned her about whether she had any sharp objects or a weapon, she responded to his questions in a calm manner but did inquire what the problem was and what was this all about. He repeatedly responded that she knew what the issue was and she responded that she did not. After several statements by the Trooper inferring that she knew why he was searching her, he finally stated that she has stolen a car. She denied this several times and began asking questions about when she would have stolen the car. The traffic stop resulted in an arrest related to an outstanding warrant of which Ms. Ogunsula had no knowledge. It was

for a rental car that Ms. Ogunsula had returned earlier that year in March 2017.

Ms. Ogunsula was taken by the police officer to Harford County Detention Center where she was held from Wednesday, 8/30/17 through Saturday night, 9/2/17. When she and the Trooper arrived at the Detention Center and during the ride to the Detention Center, Ms. Ogunsula's cellphone was still providing directions via the GPS application to her initial New Jersey destination. Once in the Detention Center's lobby, the officer asked the Appellant for her phone's pin, however she ignored his request. She was searched, made to turn over her cell phone, and placed in a holding cell with other men and women for more than eight hours. She was not allowed to make any calls. At ~9 p.m. she was allowed to leave the holding cell once to use the bathroom in the lobby. At ~ 11 pm, she saw a commissioner, but he did not have complete information on her charges and could not release her.

In the Hearing before a judge on 8/31/17, Ms. Ogunsula stated that the information in the warrant was false. She had never rented a car at Ronald Reagan Washington National Airport (DCA) in Arlington, VA. The judge stated that the charges were serious, but he granted her release on \$5,000 bail.

She was then transported back to the Detention Center, but not given much information about how the bail system works. Friday morning she was told by the officers that she was being extradited to Virginia and that could take up to 90 days. She told them she had been granted bail, but they disputed this. She requested to be taken back to the Courthouse to file a Motion, but that never happened. She requested to speak with a supervisor and refused to eat. The supervisor did eventually come and she was given papers from the Hearing that confirmed she had been

granted bail. Late Friday she was allowed to make calls and eventually connected with a friend who was able to contact the persons who paid the bail. Although the bail was paid on Friday, 9/1/17, she was not released by the Harford County Detention Center until approximately 10:30 p.m. the next day, Saturday night. She was kept in a cell all day for at least 20 hours straight.

The warrant was subsequently withdrawn by the Metropolitan Washington Airport Authority (MWAA) Police Department in Arlington, VA in September 2017. The facts stated in the Virginia warrant were false. On August 31, 2020, she timely filed a federal complaint under 42 U.S.C. § 1983 for the unlawful traffic stop against Trooper Warrenfeltz in the United States District Court of Maryland in Baltimore, Maryland on the basis that there was no lawful basis for the traffic stop.

## ARGUMENT

### THE BASIS FOR A TRAFFIC STOP: PROBABLE CAUSE

The Supreme Court and the courts of the United States have relied on a concept of and/or standard for probable cause as it relates to the traffic stop that's rooted in a case that's over 200 years old. (See United States v. Riddle, 9 U.S. 311, 1809 from Heien vs North Carolina, 135 S. Ct 530, 2014) This Supreme Court case, besides establishing that reasonable mistakes of law could provide the basis for a certificate of probable cause, also established that laws are intended to punish "acts" and not merely intention. The Petitioner argues that the time has come for this Court to more clearly define the concept of probable cause for the traffic stop. As it did with rulings such as Bell Atlantic vs Twombly and Ashcroft vs Iqbal where the Supreme Court refined the pleading standard for federal courts as set forth in the Federal Rules of Civil Procedure Rule 8, it overturned the Conley vs. Gibson standard. Two years later in 2009, the Iqbal case expanded the standard to apply to all for all federal cases. (See Bell Atlantic vs Twombly, 550 U.S. 544, 2007; Ashcroft vs Iqbal, 129 S.Ct. 1937, 2009; and Conley vs Gibson, 355 U.S. 41, 1957) Further, this Court also set a standard for the Miranda warning that has informed all police departments and the U.S. citizenry and all individuals within in the U.S. what their rights are as it relates to being seized or arrested. (Miranda v. Arizona, 384 U.S. 436, 1966)

The current standard of probable cause for the traffic stop no longer serves the public's best interest. Given our current level of technology, the magnitude of the millions of traffic stops that occur annually in the United States, the disparate negative, even deadly, impact of traffic stops occurring between minorities and police, and the

probability of abuse of pretextual traffic stops, the Petitioner argues that the Supreme Court must review and revise the standard for probable cause that sets forth a more *evidentiary* approach or standard for traffic stops.

The first tier in this multi-layered approach is establishing what several Circuits have stated in one form or another:

the “observation of a traffic violation is probable cause for a lawful traffic stop”. A move to a more evidentiary standard will strengthen the “objective basis” the Court set forth in 1996 with the *Whren vs U.S* precedent. Drivers are put on *notice* that officers must have proof beyond just their word, in most cases.

In the Petitioner’s case, the officer alleged that the Petitioner while driving a vehicle on a Maryland highway used “her right thumb” to manipulate the screen of her cellphone. If observed, this specific act is in violation of the Maryland Code (i.e., 2017 Repl. Vol., § 21 1124.1 and § 21-1124.2 of the Maryland Transportation Article, 2017. The Petitioner has consistently disputed the allegation and stated that the officer did not observe and could not have observed this act. The use of Global Positioning System (GPS) is not prohibited by the statute and this is specifically stated in the statute.

#### IMPACT—Defining Probable Cause in Traffic Stops

Officers within the United States pull over 50,000 drivers on a typical day, more than 20 million motorists every year according to The Stanford Open Policing Project.”<sup>8</sup> The

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<sup>8</sup> *Findings*, The Stanford Open Policing Project, 2023, Stanford Computational Journalism Lab and the Stanford Computational Policy Lab, Stanford University, Stanford, California; <http://openpolicing.stanford.edu/findings>

traffic stop is the most common police interaction between law enforcement and the public. Yet, based on the data comprising 100 million traffic stops compiled by the Stanford Open Policing Project “significant racial disparities exists in policing.” Generally, officers stop black drivers at higher rates than white drivers, and stop Hispanic drivers at similar or lower rates than white drivers. These broad patterns persist after controlling for the drivers’ age and gender.<sup>9</sup> Providing a framework for traffic stops that definitively determines what probable cause is would increase the public’s confidence in the objective standard/basis for traffic stops.

The Fourth Amendment provides the right of individuals “to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures”. The Terry vs. Ohio Supreme Court case (Terry vs Ohio U.S. 1, 17, 1968) establishes the framework for an encounter of an individual by a police officer that complies with the Fourth Amendment protections stating that whenever a police officer accosts an individual and restrains his freedom to walk away, he/she/they is or are ‘seized’. The Supreme Court’s Whren vs U.S. case (Whren vs United States, 517 U.S. 806, 1996) is the precedent case that establish the “Terry Stop” or investigative stop of vehicle (i.e., traffic stop). So then,

1. Terry created a limited exception to the general rule: certain seizures are justifiable under the Fourth Amendment if there is articulable suspicion that a person has committed or is about to commit a crime. (Florida v. Royer, 460 US 491, 1983 quoting Adams v. Williams, 407 U. S. 143, 1972) )

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<sup>9</sup> Findings, The Stanford Open Policing Project, 2023, Stanford Computational Journalism Lab and the Stanford Computational Policy Lab, Stanford University, Stanford, California;  
<http://openpolicing.stanford.edu/findings>

2. "a police confinement which . . . goes beyond the limited restraint of a Terry investigatory stop may be constitutionally justified only by probable cause." (Id. at 496)
3. It is also clear that not all seizures of the person must be justified by probable cause to arrest for a crime. Prior to *Terry v. Ohio*, *supra*, any restraint on the person amounting to a seizure for the purposes of the Fourth Amendment was invalid unless justified by probable cause. *Dunaway v. New York*, *supra*, at 207 209. *Terry* created a limited exception to this general rule: certain seizures are justifiable under the Fourth Amendment if there is articulable suspicion that a person has committed or is about to commit a crime.
4. *Terry* and its progeny nevertheless created only limited exceptions to the general rule that seizures of the person require probable cause to arrest. Detentions may be "investigative" yet violative of the Fourth Amendment absent probable cause.

The Seventh Circuit stated in *US vs. McDonald* that, "a stop based on a subjective belief that a law has been broken, when no violation actually occurred, is not objectively reasonable." (*US vs. McDonald*, 453 F.3d 958, 962, 7th Circuit, 2006) A mistake of law cannot be cured with "good faith" belief that a law has been broken. "Whether the officer's conduct was reasonable under the circumstances is not the proper inquiry." A mistake of law or subjective belief that a law has been broken cannot provide an objective basis for a traffic stop or turn an unlawful traffic stop into a lawful one. The Fifth, Ninth, Tenth and Eleventh Circuit also agree on this. The Eighth Circuit disagrees. *Heien vs North Carolina* said mistakes of law can only be reasonable where a law is truly ambiguous. If the words of a statute are plain, clear, or easy to interpret, or if an appellate court has previously

interpreted the statute to give it a certain meaning, any mistake as to its meaning cannot be reasonable.

Whren stated that, "The temporary detention of a motorist upon probable cause to believe that he has violated the traffic laws does not violate the Fourth Amendment's prohibition against unreasonable seizures, even if a reasonable officer would not have stopped the motorist absent some additional law enforcement objective." (Whren vs United States, 517 U.S. 806, 1996) Further in this same case, this Court quoted the Delaware and Prouse precedent case from 1979 saying, "Detention of a motorist is reasonable where probable cause exists to believe that a traffic violation has occurred." (Whren quoting Delaware vs. Prouse, 440 U.S. 648, 659, Date) Lastly and pertinent to this argument, the Court went on to say that "acting upon observed violations...which afford the "quantum of individualized suspicion" necessary to ensure that police discretion is sufficiently constrained. What the court has consistently disavowed was seizures without probable cause or reasonable suspicion (See United States vs. Brignoni-Ponce, 422 U.S. 873, 878, 1975) This Petition argues that this Court should add an evidentiary standard to probable cause based on the current state of technology available to police officers.

The Supreme Court has not expressly defined or explicitly stated, "What is probable cause as it relates to the traffic stop?" In fact, the Court has consistently resisted defining probable cause which may be justifiable in some respects. (See Ornelas v. United States, 516 U.S., 695-696, 1996) However, with regard to the traffic stop, defining that *the observation of a traffic violation as probable cause* (for a traffic stop) would bring unity among the Circuits and provide a bright-line rule for probable cause that could affect upwards of 90%\* of traffic stops or approximately 16.8 million police traffic stops annually just based 2018

numbers.<sup>10</sup> That's approximately 46,000 traffics stops per day.

The Fourth Circuit in a 2014 case, U.S. vs Leconie Williams, stated "When an officer observes a traffic offense — however minor — he has probable cause to stop the driver of the vehicle." (US v. Williams, 740 F. 3d 308 - Court of Appeals, 4th Circuit, 2014) (U.S. vs Hassan El, 5 F.3d at 730, 4<sup>th</sup> Circuit, 1993 quoting United States v. Cummins, 920 F.2d 498, 500, 8<sup>th</sup> Circuit, 1990). The Fourth Circuit based its rulings on the specificity of the Eighth Circuit ruling to define probable cause. The Sixth Circuit in an en banc ruling, United States vs. Ferguson said, "[W]hen an officer observes a traffic offense or other unlawful conduct, he or she is justified in stopping the vehicle under the Fourth Amendment." (United States vs. Ferguson, 8 F.3d 385, 392, 6<sup>th</sup> Circuit, 1993, en banc)

In Whren, this Court affirmed the DC Circuit Appeals Court's ruling for its 1991 Whren case, where the DC Circuit applied its "Mitchell standard" for reasonableness when it discussed the pretextual traffic stops or an officer's subjective motivation for a traffic stop. The DC Circuit implied that observing a traffic violation provides the legal justification or probable cause for a traffic stop. In affirming the DC Circuit's Whren ruling, the Supreme Court based its opinion on the Terry vs Ohio precedent. It was conceded by the parties that traffic violations had been observed by the officers thus providing probable cause for the traffic stop. Although, as stated earlier, the Court did state that

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<sup>10</sup> Erika Harrell, Ph.D. and Elizabeth Davis, Bureau of Justice Statisticians, "Contacts Between Police and the Public, 2018 – Statistical Tables", *Table 2—Residents with police contact, by reason for contact, 2015 and 2018, "Police initiated contact—Driver during a traffic stop"*, 2018. U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, December 2020 (NCJ 255730) Revised February 3, 2023

the primary way of “enforcing traffic and vehicle safety regulations was acting on observed violations, it has not plainly stated that the observation of a traffic violation provides probable cause for a traffic stop that does not intrude on the Fourth Amendment. (Delaware v. Prouse, 440 US 648)

The Supreme Court should make this clear because it further strengthens the objective standard that the Court established in its Whren precedent. If any one of the myriad of traffic violations is observed, the material fact becomes, with regard to the lawfulness of the stop, whether the driver can provide evidence or other information to disprove the officer’s stated observation. Given the proliferation of technology, cameras, dashcam, body cams, etc., officers should be able to prove most infractions based on some type of objective evidence.

Petitioner’s traffic stop was baseless at its inception because there was no objective basis for the stop per the Whren standard and this Court’s Hein vs North Carolina case standard requiring that mistakes of law or fact be objectively reasonable. Referring to Segment 2 in the Graphic Diagram of the Ogunsula traffic stop (See Appendix, 104), there was no probable cause for the traffic stop because the officer did not observe a traffic violation. The Petitioner denied “thumbing her cellphone screen” and the frame of the SUV/vehicle the Petitioner was driving prevented the officer from seeing what he added to his report eight days later. Secondly, a mistake of fact is not reasonable if the fact is untrue and a mistake of law is unreasonable if the act(s) that took place are not illegal. Using GPS via a cellphone and/or handling an earbud is/are not illegal under the Maryland Code. (See Appendix, page 98A.)

## **THE BASIS FOR A TRAFFIC STOP: REASONABLE SUSPICION**

The Fourth Circuit has previously ruled that the mere fact that a driver is traveling on a public road does not give police blanket authority to stop the vehicle. Police need reasonable suspicion that the driver is involved in criminal activity or violating traffic laws. (United States vs. Hassan, 4th Circuit, 2018) In fact the 4<sup>th</sup> Circuit requires the officer have a particularized and objective basis for suspecting the particular person stopped of a criminal activity. (Milla vs. Brown, 109 F.4th 222, 2024 quoting Wingate v. Fulford, 987 F.3d 299, 305, 4th Cir. 2021)

If the activity on which the traffic stop was based was not unlawful and the totality of the activity does not provide a basis for individualized, particularized reasonable suspicion, the traffic stop is illegal. Based on the 2014 Heien case, this Court has stated that the Fourth Amendment tolerates only objectively reasonable mistakes of law and facts. (Heien vs North Carolina, 135 S.Ct. 530, 2014, paraphrased.) And certainly, to be objectively reasonable does not mean 100% perfect, but it does mean any stated justification for a traffic stop based on individualized, particularized reasonable suspicion must be true.

In the present case there is a material dispute among the parties on the fact justifying the traffic stop. Was the stop pretextual? Whren says that does not matter if the traffic stop was lawfully based on probable cause or reasonable suspicion. If probable cause exist, the traffic stop is lawful according to Whren. The Petitioner provided evidence that disputed a fact central to the officer's probable cause or reasonable suspicion justification. Pictures of the vehicle

provide evidence that the officer could not see the act the officer later added to a report to justify the traffic stop.

Will explicitly stating that probable cause for a traffic stop requires observation or witnessing a traffic violation decrease pretextual stops which disproportionately impact African Americans and other minorities? Yes, the Petitioner believes it will because it will heighten the standard and/or awareness, and provide clarity for law enforcement. It will also increase public confidence in law enforcement and their role to enforce traffic and vehicle safety regulations. Improving clarity around traffic stops and increasing the public confidence in balanced and impartial law enforcement is a benefit to society and the American way of life.

#### **IMPACT: Tyre Nichols and Sandra Bland**

Tyre Nichols was driving his Nissan vehicle and was two minutes away from his home (where he lived with his mother) when he was stopped on January 7, 2023 by Memphis Police Officers. As the officers approached Nichols' car and ordered him out of the car, they never told him the justification for the traffic stop according to news reports<sup>11</sup> of testimony of police officer Emmitt Martin III in federal court for the beating death of Tyre Nichols. Officer Martin initiated the traffic stop. Officer Preston Hemphill approached Nichols in his car with his gun already drawn during the initial stop of the vehicle. Hemphill's bodycam footage shows that Nichols, who never raised his voice and simply stated "Hey, I didn't do anything", complied with the officers' request to "get on the ground" by saying "alright" at

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<sup>11</sup> Megan Fayard and April Thompson, "Tyre Nichols trial: Ex-MPD officer recounts night of beating", *WREG*, 9/16/24, <http://wreg.com/news/local/tyre-nichols/tyre-nichols-trial-witness-testimonies-continue-into-week-2/amp/>

least 15 times during the initial traffic stop. The stop immediately escalated into a confrontation as the officers dragged Nichols from his car without any visible sign of provocation. After being shouted at, manhandled and threatened with being tased and then tased, Tyre Nichols got away from the officers and fled in fear for his life<sup>12</sup>.

A few minutes later, other officers caught up to Nichols who had run a few blocks from the initial scene and began beating him.<sup>13</sup> Martin arriving at the second scene shortly thereafter assaulted him by kicking him in the head at least twice along with punching him in the head and chest and further kicking him in his body. Two other officers, also assaulted Nichols beating him with a baton, and pepper spraying him.<sup>14</sup> **The officers put in their reports “reckless driving” as the justification for the traffic stop.** All of the officers provided false information or omitted material information from police incident reports in an effort to cover up their unlawful conduct. After reviewing videos from bodycam footage, Memphis Police Chief Cerelyn “CJ” Davis, said she “saw no justification” for the traffic stop.<sup>15</sup> Preston

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<sup>12</sup>Bodycam footage, “Memphis Police Department, shows initial moments officers confronted Tyre Nichols” during 1/7/23 traffic stop. Article by Travis Loller and Adrian Sainz, “Officer drew gun as he approached Tyre Nichols, report finds”, FOX7 AUSTIN, 2/10/2023, Associated Press, <http://www.fox7austin.com/news/officer-drew-gun-as-he-approached-tyre-nichols-arrest.amp/>

<sup>13</sup>Travis Loller and Adrian Sainz, “Officer drew gun as he approached Tyre Nichols, report finds, FOX7 AUSTIN, 2/10/2023, Associated Press, <http://www.fox7austin.com/news/officer-drew-gun-as-he-approached-tyre-nichols-arrest.amp/>

<sup>14</sup> U.S. Department of Justice. (2024, October 3) *Three Former Memphis, Tennessee, Police Officers Convicted of Federal Felonies Related to Death of Tyre Nichols* [Press Release].

<http://www.justice.gov/archives/opa/pr/three-former-memphis-tennessee-police-officers-convicted-federal-felonies-death-tyre>

<sup>15</sup>Travis Loller and Adrian Sainz, “Officer drew gun as he approached Tyre Nichols, report finds”, FOX7 AUSTIN, 2/10/2023, Associated

Hemphill, who is white, ‘admitted he did not witness the alleged reckless driving that was the alleged justification for the traffic stop’.<sup>16</sup> All of the officers were fired by Chief Davis from the Memphis police department.

On July 10, 2015, Sandra Annette “Sandy” Bland was pulled over in Prairie View, Texas by police officer Brian Encinia, a white state trooper, for an alleged traffic violation of changing lanes and failing to signal.<sup>17</sup> Just the day before Bland had successfully interviewed for a community outreach coordinator position with her alma mater, Prairie View A&M University. At the time of the traffic stop, she had received good news that she gotten the job. Her start date was August 3.<sup>18</sup> Unfortunately, she would never begin her job at Prairie View University.

Bland’s encounter with Trooper Encinia escalated quickly and led to her being ordered to get out of her car after she refused to put out her cigarette. The officer, determined to make her comply, tried to physically pull her out of her car. After that was unsuccessful, he unholstered his taser, pointed it in her face and threatened to tased her if she did not get out of the car. Once out of the car, the police officer took her outside of the view of his dashcam camera, forced her to the ground and handcuff her. She was charged with felony assault on a public servant—Encinia wrote in his

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Press, <http://www.fox7austin.com/news/officer-drew-gun-as-he-approached-tyre-nichols-arrest.amp/>

<sup>16</sup>Travis Loller and Adrian Sainz, “*Officer drew gun as he approached Tyre Nichols, report finds*”, FOX7 AUSTIN, 2/10/2023, Associated Press, <http://www.fox7austin.com/news/officer-drew-gun-as-he-approached-tyre-nichols-arrest.amp/>

<sup>17</sup> Christian Farr and Katy Smyser, “*Sandra Bland Was Right: An NBC5 Investigation*” NBC5 Chicago”, 2/6/2023, <http://www.nbcchicago.com/investigations/sandra-bland-was-right-an-nbc-5-investigation/3064953/?amp=1>

<sup>18</sup> Tiana Wilson, “The Life and Legacy of Sandra Bland: A catalyst for Change”, 2015,

arrest affidavit that Bland had kicked him. Her bail was set at \$5,000. She made several phone calls to friends and family, and efforts were made to raise money to post her bail.<sup>19</sup> On July 13, 2015, three days after being arrested, Sandra Bland was found dead in her cell of an apparent suicide.

Following Bland's death, Trooper Encinia was placed on administrative duty for violating protocol for traffic stops and a joint investigation into Bland's death was launched by the FBI and Texas Rangers. In January 2016, Encinia was indicted for perjury for claiming in his arrest report that he removed Bland from the vehicle "to more safely conduct a traffic investigation".<sup>20</sup> Trooper Encinia was later fired and in 2017 he agreed to never work in law enforcement again in exchange for having the perjury charge dismissed.

Unfortunately, Sandra Bland and Tyre Nichols are just examples of a troubling list of unarmed African Americans that died in disturbing circumstances after being pulled over for a traffic stop. Between 2014 and 2016, the following individuals died during officer initiated traffic stops:

- Jerame Reid—pulled over for running a stop sign (Bridgeton, New Jersey, 2014)
- Walter Scott—pulled over because his brake light was out (North Charleston, South Carolina, 2015)

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<sup>19</sup> Tiana Wilson, "*The Life and Legacy of Sandra Bland: A Catalyst for change: Sandra Annette Bland*", Texas State Historical Association (TSHA), <http://tshaonline.org/handbook/entries/bland-sandra-annette-sandra>

<sup>20</sup> Tiana Wilson, "*The Life and Legacy of Sandra Bland: A Catalyst for change: Sandra Annette Bland*", Texas State Historical Association (TSHA), <http://tshaonline.org/handbook/entries/bland-sandra-annette-sandra>

- Samuel DuBose—pulled over for a missing license plate (Cincinnati, Ohio, 2015)
- Philando Castile—pulled over because police said he had a “wide-set nose” resembling a suspect (Falcon Heights, Minnesota, 2016)<sup>21</sup>

In total more than 400 unarmed drivers or passengers who were not being pursued for a violent crime were killed by police in traffic stops between 2016 and 2021.<sup>22</sup>

The Sandra Bland story was at the forefront of the Petitioner’s mind as she sat for what seemed like twenty minutes in her rental vehicle waiting for the police officer to return to her vehicle after the initial traffic stop. She wanted to get out and walk to the police vehicle to find out why the stop was taking so long, but she was afraid that could escalate the traffic stop as the news was currently full of reports of shootings of unarmed Black Americans during similar traffic stops. And when the police officer did return to her vehicle, he immediately began an escalation of the traffic stop. He asked her to get out of the car without telling her why. He raised his voice and exclaimed that she knew why when she asked what the problem was. It took several inquiries to the officer to find out why the Petitioner was being asked to get out of the car and being patted down on the side of the road. It was very scary and if her personality was different or she was autistic or had a mental disability such as anxiety, the traffic stop” could have had a deleterious outcome.

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<sup>21</sup> Christian Farr and Katy Smyser, “*Sandra Bland Was Right: An NBC5 Investigation*” *NBC5 Chicago*”, 2/6/2023, <http://www.nbcchicago.com/investigations/sandra-bland-was-right-an-nbc-5-investigation/3064953/?amp=1>

<sup>22</sup> Steve Eder and Kim Barker, “*Why Many Police Traffic Stops Turn Deadly*”, New York Times, 10/31/2021

If the officers involved in the Tyre Nichols and Sandra Bland traffic stops as well as the officer in the Petitioner's traffic stop were on notice that they needed proof of a traffic violation, could the traffic stops have turned out differently? Maybe, there is hope. But, as previously stated the Memphis police officers were bad apples. With the proliferation of cameras including dashcams as mentioned earlier, it is much easier today to document traffic violations. Pulled over for an expired tag, the officer can take a quick snap of the license plate. Failing to signal, an officer with a dashcam who is behind the driver and observed the violation should have also captured it on their dashcam. There are even "google" glasses that can capture video.

How could changing the *probable cause* concept for a traffic violation have saved or positively impacted the Sandra Bland or Tyre Nichols situation?

Answer: The officer(s) would have been on notice that they needed evidence of a traffic violation in order to deem the stop lawful. They would need something more than just their word especially since all of the officers were wearing bodycams and some of the vehicles had dashcams. In Nichols' case, pole camera footage was also available. In Bland's case, the officer's vehicle was equipped with dashcam footage. So the traffic violation should have been captured.

In the age when video footage is so easily captured and so readily available to the public and law enforcement, clarifying the standard for "probable cause" in traffic stops can only have both a quantifiable and qualitative effect in building trust among the public and providing greater credibility for law enforcement. Further it would:

1. Provide **notice** to both the public of how common traffic stops should be conducted similar to the Supreme Court's Miranda Rights rulings that became the standard for questioning individuals arrested for crimes
2. Changes the mindset of officers from "my word" is enough to how can I prove this.
3. It creates a better basis for oversight and accountability for law enforcement leadership and internal investigative agencies.

The negligible impact on the safety of the officer because of recording the incident. There is an increased emphasis on objective standards which is the basis of the Supreme Court's precedent.

More than three-quarters of motorists killed by police officers during traffic stops were trying to flee. In other cases the police responded aggressively to disrespect or defiance, punishing what some officers call "contempt of cop."<sup>23</sup> Only five officers were convicted in the 400 police killings reviewed by the New York Times. Some officers were offered plea deals or their charges were dropped in exchange for them agreeing to never work in law enforcement again. However, besides the immeasurable loss to the families of the deceased, local governments paid out at least \$125 million to resolve legal claims in about 40 cases.<sup>24</sup>

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<sup>23</sup> Pulled Over: What To Know About Deadly Police Traffic Stops, Michael Levenson, The New York Times, October 31, 2021, Updated November 8, 2021

<sup>24</sup> Pulled Over: What To Know About Deadly Police Traffic Stops, Michael Levenson, The New York Times, October 31, 2021, Updated November 8, 2021

### 11<sup>th</sup> Amendment Immunity

Qualified immunity "balances two important interests—the need to hold public officials accountable when they exercise power irresponsibly and the need to shield officials from harassment, distraction, and liability when they perform their duties reasonably." (Pearson v. Callahan, \*311 555 U.S. 223, 231, 129 S.Ct. 808, 172 L.Ed.2d 565, 2009) Officer Warrenfeltz is not entitled to qualified immunity for the Ogunsula traffic stop because the justification the officer added to his report eight days later is not true. The traffic stop was unlawful from its inception.

### Roseboro vs. Garrison or Rule 12/56 Notice

The above 4<sup>th</sup> Circuit case is a case where the grant of Summary Judgment was reversed by the Appeals Court because the Appellant/Plaintiff, who was pro se, did not receive "fair notice of the requirements of the summary judgment rule." (Roseboro vs Garrison, 528 F.2d 309, 1975) Petitioner/Plaintiff was in the midst of responding to filings she had to be responsive to including a Response and Reply to discovery disputes by both parties; Motion for Sanctions; an in-court Hearing; a Response to a Magistrate's Report, and filings related to subpoenas for additional discovery. Petitioner believed, maybe naively because she was pro se, that the Court would resolve the outstanding motions and filings before moving to rule on the Summary Judgment motion from the Defendant. At the time of the Court's final ruling, there were still outstanding discovery motions. Although the Court did respond to correspondence from the Plaintiff regarding the local rules concerning response time for motions, the Petitioner did not receive a Rule 12/56 notice from the court signaling the Court would rule before resolving outstanding discovery issues. The Court ruled in favor on the Defendant's Motion for Summary Judgment. The Plaintiff filed a Motion for Reconsideration under Rule 59 (d) and (e).

## CONCLUSION

Unlawful traffic stops have no legitimate purpose in promoting traffic or vehicle safety and only serve to erode public trust in those sworn “to protect and serve”. Pretextual traffic stops, although useful in some investigatory instances, have served to undermine the public’s trust in law enforcement because far too often this type of policing has been used to target and racially profile minorities, specifically black and brown people. It is well documented based on credible data that African Americans are the victims of a disproportionate number of traffic stops. It is incumbent upon every level of government to use every available tool--such as clarifying probable cause as it relates to traffic stops--that can potentially positively impact millions of traffic stops per year and reduce the number of disproportionate traffic stops for African Americans and other minorities. This also includes the highest, most respected judiciary authority in the land whose mission is to “provide equal justice under law”. The result: increased trust in law enforcement and a more just society.

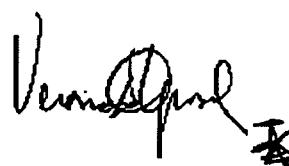
More than 55 years ago, this very Court put it best when in *Terry vs Ohio* it recognized that certain police groups used the “Terry Stop as it would be later be called in *Whren*” to stop and question “youth and minority groups” in an effort to maintain an image of aggressive policing by stating the following:

“The wholesale harassment by certain elements of the police community, of which minority groups, particularly Negroes, frequently complain, will not be stopped by the exclusion of any evidence from any criminal trial. Under our decision, courts still retain their traditional responsibility to guard

against police conduct which is overbearing or harassing, or which trenches upon personal security without the objective evidentiary justification which the Constitution requires. When such conduct is identified, it must be condemned by the judiciary and its fruits must be excluded from evidence in criminal trials. And, of course, our approval of legitimate and restrained investigative conduct undertaken on the basis of ample factual justification should in no way discourage the employment of other remedies than the exclusionary rule to curtail abuses for which that sanction may prove inappropriate." (Terry vs Ohio, 392 U.S. 1, 15, 1968)

This quote taken from Footnote 11 acknowledged a problem in 1968 that still persists to this day. In fact, it has grown exponentially as evidenced by 400 unarmed individuals being killed in interactions with police officers during traffic stops in a five year time span. In this case, this Court has an opportunity to reaffirm the Fourth Amendment and the Fourteenth Amendment, reduce unlawful traffic stops, and increase the public's confidence in your relevance to issues that everyday Americans face. This Petition for a Writ of Certiorari should be granted.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Veronica Ogunsula", is positioned above a solid horizontal line.

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