

No. 25-688

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 REHEARING

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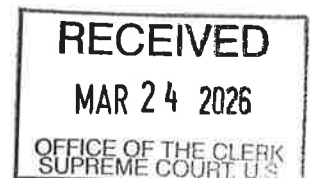


TABLE OF CONTENTS

TABLE OF AUTHORITIES	ii
PETITION FOR REHEARING	1
GROUNDS FOR REHEARING.....	1
<u>I.</u> THERE IS AN OPEN CONFLICT BETWEEN THE MARYLAND SUPREME COURT, IOWA STATE SUPREME COURT, 7 TH CIRCUIT AND 4 TH CIRCUIT COURT OF APPEALS ON WHREN STOP'S OBJECTIVE REASONABLE STANDARD.....	2
Suspicion vs Reasonable Suspicion.....	4
<u>II.</u> Inception Requirement: Modernizing Whren with a Framework Analysis and Technology-informed Objective Corroboration.....	6
CONCLUSION	11
APPENDIX	13
Table of Court Rulings--Has Reasonable Suspicion Been Established by Touching The Screen of or Holding Cellphone?	
CERTIFICATION OF A PARTY UNREPRESENTED BY COUNSEL	14

TABLE OF AUTHORITIES

Cases

Heien vs North Carolina, 135 S.Ct. 530, 2014.....	8
Kansas vs Glover, 140 S.Ct. 1183 at 376, 2020	8
State of Maryland v. Michael Eugene Stone, No. 16, Sept. Term 2025, 2026 WL 202095 Md., Jan. 27, 2026.....	8, 9
State of Maryland v. Williams, 401 Md. 676, 2007.....	9
State v. Dalton, 850 S.E.2d 560, 566 (North Carolina Ct. App. 2020	13
State v. Nguyen Ngoc Pham, 433 P.3d 745, 746 (Oregon Ct. App. 2018	13
State v. Rabanales-Ramos, 359 P.3d 250, 253 (Oregon Ct. App. 2015	13
State v. Struve, 956 N.W.2d 90, 94 (Iowa, 2021	13
Terry v. Ohio, 392 U.S. 1, 21 (1968)	2
U.S. v. Paniagua-Garcia, 813 F.3d 1013, 1014, 7th Circuit, 2016.....	3, 5, 9, 13
U.S. vs. Sowards, 690 F.3d 583, at p. 8, 4 th Circuit, 2012	9
Whren v. United States, 517 U.S. 806, 1996	3, 8

Statutes

42 U.S.C. § 1983	11
Maryland TR §§ 21-1124 through 21-1124.2	2, 7

Rules

Supreme Court Rule 10 (a), (b) & (c)	5
Supreme Court Rule 44.2	1, 5, 14

PETITION FOR REHEARING

Pursuant to the Supreme Court's Rule 44, Veronica Ogunsula, Petitioner, respectfully files this Petition For Rehearing of the Court's February 23, 2026 Order denying her Petition for Writ of Certiorari in the case of Veronica Ogunsula vs. Maryland State Trooper First Class Michael Warrenfeltz.

GROUND FOR REHEARING

This case presents the rare situation in which a significant "intervening circumstance" of a substantial or controlling effect occurred as required for a Petition for Rehearing by Supreme Court Rule 44.2. Based on the ruling by the Maryland Supreme Court in *Maryland vs Eugene Stone*, opinion filed on 1/27/26, which coincides with the 7th Circuit's precedent regarding reasonable suspicion and cellphone use, there is a clear *conflict* in what the 4th Circuit affirmed in this case. The Maryland Supreme Court case is based squarely on the cellphone usage law at issue in *Ogunsula vs. Warrenfeltz* and the issue of reasonable suspicion. This case presents a uniquely clean vehicle for the Court to resolve the conflict. Therefore, the Supreme Court should grant rehearing and certiorari in this case. If *Ogunsula vs. Warrenfeltz* had been heard by the 7th Circuit instead of the 4th Circuit, based on the same facts at issue in the case, the lower court's decision would have been reversed and remanded instead of affirmed because the initial traffic stop was unconstitutional.

I. THERE IS AN OPEN CONFLICT BETWEEN
THE MARYLAND SUPREME COURT, IOWA
STATE SUPREME COURT, 7TH CIRCUIT AND
4TH CIRCUIT COURT OF APPEALS ON
WHREN STOP'S OBJECTIVE REASONABLE
STANDARD

On January 27, 2026, the Maryland Supreme Court published an opinion in the case, State of Maryland vs. Michael Eugene Stone, that decided the question of when a police officer observes an act or conduct that maybe legal or illegal use of a mobile phone, whether this alone justifies a traffic stop based on reasonable suspicion. This Maryland state court of last resort “held that where conduct observed by officer is consistent with legal or illegal use of [a] mobile phone, to justify traffic stop, [the] police officer must be able to credibly identify specific *facts*, not applicable to [the] general law-abiding public, “which, taken together with rational inferences from those *facts*,” Terry v. Ohio, 392 U.S. 1, 21 (1968), under totality of circumstances, reasonably establish that violation of Maryland Transportation Code §§ 21-1124, 21- 1124.1, or 21-1124.2 has occurred or may be occurring.” The Court concluded that “where police officer observes driver manipulating, touching, or pressing screen of mobile phone, without additional information, [a] reasonable and prudent officer would not be justified in believing that person had violated traffic laws governing use of mobile phone while driving. Such limited observations are equally consistent with lawful mobile phone use and therefore do not eliminate substantial portion of innocent drivers or supply particularized facts required to justify stop” under the aforementioned Maryland statute governing the use of the cellphone while driving.

This decision, although in harmony with a precedent of the 7th Circuit, *United States v. Paniagua-Garcia* 813 F.3d 1013 (7th Circuit, 2016), conflicts with what the 4th Circuit upheld on the very same matter in this case, *Veronica Ogunsula vs. Maryland State Trooper Michael Warrenfeltz* (Case No. 25-688), that was before the U.S. Supreme Court on Petition For Writ of Certiorari from the 4th Circuit. (Denied Certiorari on February 23, 2026) Although the statute at issue in the 7th circuit is very similar or identical to the Maryland Statute, the important issue is whether the police observing conduct that is innocuous, ambiguous, “not out of the ordinary” for a “substantial portion of innocent drivers”, is not clearly unlawful, and do not constitute *facts* from which, together with the rational inferences that may be drawn from them, [is] sufficient to satisfy the requirement for reasonable suspicion. Further, the decision also conflicts other state courts of last resort on the issue of whether police are authorized under the Fourth Amendment to initiate Whren stops (*Whren v. United States*, 517 U.S. 806, 1996) to resolve ambiguity about any such observed conduct. The Maryland Supreme Court and the 7th Circuit said no.

The Maryland Supreme Court’s “objective reasonableness standard” test or assessment of whether a traffic stop can be justified under reasonable suspicion in violation of its mobile communications or cellphone law statute is instructive for this Court. The cellphone is ubiquitous in America. (See Section II in this brief for specific data.) That Court said that: 1) it is impossible for wholly innocent factors to combine to create reasonable suspicion; 2) it is not enough for officers to be able to articulate why they stopped a driver. The “why” must eliminate a substantial portion of innocent travelers; and 3) there is nothing different about a Whren stop that allows an officer to conduct a traffic stop when there is no possibility that a traffic violation or crime has occurred or is being

committed. The pre-stop justification must satisfy the standard of reasonable suspicion. Further, and most importantly, the officer cannot initiate a Whren stop to resolve ambiguity or dispel confusion regarding whether a *singular act*, such as touching the display of a cellphone, was illegal or legal. In the Petitioner's case, this act of whether she was touching her cellphone's screen is certainly disputed, but nevertheless the alleged act is relevant to this analysis.

Suspicion vs Reasonable Suspicion

"What [government] calls reasonable suspicion we call suspicion." Maryland Supreme Court, State of Maryland vs. Eugene Stone, 2026

In Maryland, as in other jurisdictions referenced in this case, drivers may use their hands to use a handheld telephone to initiate or terminate a call, turn a handheld telephone on or off, use Global Positioning System (GPS) or contact a 9-1-1 system or other emergency services. The Maryland Supreme Court stated that because there are both lawful and unlawful uses of the cellphone permitted in the car while driving, officers may not base a traffic stop on observing a driver "manipulating, touching, or pressing screen of mobile phone, without additional information" obtained before the traffic stop occurs.

Suspicion is generalized, reasonable suspicion is not. Example: Assuming everybody you observe in a weird little town is a vampire without any proof that they have fangs, avoid sunlight, or drink blood (factors), is a suspicion. In a scene from a recently released horror movie, a young man walked into a dark room at a juke joint and saw woman clad in a shirt with red stains and a pitcher of drink nearby. The young man thought maybe the woman had too good of a time and spilled a drink or got ketchup all over

themselves. However the young man saw: 1) the person kneeling or bending over a body on the floor; 2) the body also soaked in a red substance and appeared to be lifeless; and 3) the woman turning toward our observer with her face and mouth covered in a red “substance”. By the factors, there existed reasonable suspicion that the woman was a vampire and she was sucking the blood out of the body on the floor.

The 7th Circuit’s Paniagua case puts it this way, consider now that some drivers don't have a driver's license, or their license has expired. The logic of [defendant’s] position is that either possibility, however *slight*, justifies the police officer in suspecting that the driver is not authorized to drive and in ordering him to pull over. U.S. v. Gregorio Paniagua-Garcia, 813 F.3d 1013, Page 3, 2016. This puts this Court’s Kansas vs Glover precedent, in view and its discussion of indicia of reliability or what this brief terms objective corroboration. This is discussed in Point 2 as being necessary to establish an objective reasonable basis for reasonable suspicion.

Granting this Rehearing Petition is warranted because the Maryland Supreme Court’s ruling in Stone in January 2026, issued after the certiorari petition was filed, directly conflicts with the federal lower court’s decision, while aligning with Terry, Whren and the 7th Circuit. Rehearing is warranted in light of those precedents and the requirement of objective reasonable suspicion. This is not a request for an error correction. There is a direct conflict among federal circuit and the Maryland Supreme Court and other state supreme courts. (Supreme Court Rule 10 (a) & (b), and 44.2.

II. Inception Requirement: Modernizing Whren with a Framework Analysis and Technology-informed Objective Corroboration

A traffic stop is the most common public safety occurrence in the United States today.¹ With 98% of Americans owning a cellphone² and 91% of them owning a smartphone³ with connectivity to the internet and advanced apps, it is a common occurrence for most drivers to have cellphones inside their cars. Common placements for these phones include cup holders, passenger seats, laps, and dashboard mounts. (McGough & Ma, 2015).⁴ They not only have them in their possession in their cars, but 60% of drivers use their phones for its GPS capability accessing directions and navigation. Some even use their phones to play music. So therefore, it can be safely concluded the majority of drivers have a cellphone within their car, within arm's reach and use the phone's capability for lawful purposes.

It should be also noted that almost all traffic stops are fairly routine and low risk for the police officer. It's an everyday occurrence that rarely results in serious injury to

¹ About 50,000 drivers/day and more than 20 million motorists every year are pulled over by police. *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 Mobile Fact Sheet, Pew Research, 11/20/2025, <https://www.pewresearch.org/internet/fact-sheet/mobile/>

³ McClain, Colleen and Bishop, William, “*What We Know About Internet Use, Smartphone Ownership and Digital Divides In the U.S.*”, Pew Research, 01-08-2026, <https://www.pewresearch.org/short-reads/2026/01/08/internet-use-smartphone-ownership-digital-divides-in-u-s/>

⁴ McGough, B., & Ma, W., *Assessment of in-vehicle cellphone locations in influencing driving performance and distraction*, Proceedings of the Human Factors and Ergonomics Society Annual Meeting, 59(1), 1588–1592 (2015),

the officer.⁵ It is a routine part of the police officer's job. So there is no undue threat that would preoccupy the officer. The officer has the time to verify the traffic violation.

As indicated by the Maryland Supreme Court, to draw a conclusion of reasonable suspicion from a glance at a driver handling a phone, the officer must distinguish between lawful and unlawful uses of the phone given the Maryland TR §§ 21-1124 through 21-1124.2 statute. Briefly observing a driver touching the screen of a phone without more or handling an earbud, which the Petitioner did and is not unlawful, is but one singular factor on which an officer is basing their decision of reasonable suspicion.

“Where a police officer observes a driver manipulating, touching, or pressing the screen of a phone, without additional information, a reasonable and prudent officer would not be justified in believing that the person may have violated traffic laws governing use of a mobile phone while driving. Limited observations of this type are not “out of the ordinary[,]” i.e., do not rule out “a substantial portion of innocent” drivers, *Cartnail*, 359 Md. at 291, 753 A.2d at 530 (citation modified), and do not constitute **facts** from which, together with the rational inferences that may be drawn from them, are sufficient to satisfy the requirement for reasonable suspicion of a violation of TR §§ 21-1124, 21-1124.1, or 21-1124.2.”

⁵ Only 1 in 6.5 million stops results in a felonious killing to an officer; only 1 in 361,111 stops results in a serious injury to an officer; and 1 in every 6959 stops results in an assault (whether there is an injury to the officer or not) against an officer. Woods, *Jordan Blair: Policing Danger Narratives, and Routine Traffic Stops*, 117 Michigan Law Review 635-712, 2019,

(State of Maryland v. Michael Eugene Stone, No. 16, Sept. Term 2025, 2026 WL 202095 Md., p. 40, Jan. 27, 2026) (emphasis added)

Strengthening the objective reasonableness framework for reasonable suspicion, as set forth in the Supreme Court precedent, *Whren vs U.S.* (517 U.S. 806), with objective corroboration when there is readily available tools to support the valid basis of inception of a traffic stop is key to improving the efficiency and effectiveness of the legal process and judicial system. Further, not utilizing tools, such as radar, dashcams, and LRS (license plate readers), readily available to an officer to establish the objective reasonableness of a traffic stop from its inception is not reasonable. The 4th Circuit held this in its case, *U.S. vs Sowards*, where a police officer failed to use a readily available radar in lieu of using just their eyes to validate that a driver was exceeding the speed limit by 5 mph. Absence objective corroboration along with the indicia discussed below makes a traffic stop based on a mistake of law or fact unreasonable from its inception when the mistake could have been avoided by using reading available technology. (See *Sowards* below, also *Heien vs North Carolina*, 135 S.Ct. 530, 2014) This corroborating objective indicia was totally absent in the Petitioner's case. There is no video from dashcam or LRS.

Objective corroboration coupled with commonsense inference satisfies the “particularized and objective basis to suspect legal wrongdoing” discussed in Supreme Court precedent, *Kansas v. Glover*. (*Kansas vs Glover*, 140 S.Ct. 1183 at 376, 2020) Objective corroboration may consists of:

- a) Audio or video (verified) recordings and images/pictures (e.g., video or pictures from body cam, dashcam, cell phone, etc.)
State v. Struve, 956 N.W.2d 90, 94 (Iowa 2021)

Body camera footage that was admitted into evidence demonstrates that, consistent with [officer's] testimony, Officer Huff advised Mr. Stone that he was stopped for “using” a cell phone while driving. Footnote, (State of Maryland v. Michael Eugene Stone, No. 16, Sept. Term 2025, 2026 WL 202095 Md., Footnote 20, p. 43, Jan. 27, 2026; also U.S. v. Paniagua-Garcia, 813 F.3d 1013, 1014, 7th Circuit, 2016)

- b) Radar, LRS (license plate readers), etc.—sufficient indicia of reliability or mechanical corroboration to dispel that the officer’s observation is not a guess that is merely conclusory and lacks the necessary factual foundation to provide the officer with reasonably trustworthy information in order to initiate a valid traffic stop. (U.S. vs. Sowards, 690 F.3d 583, at p. 8, 4th Circuit, 2012)

- c) Credible articulation of observation of acts and/or facts.—A detailed and truthful description of the conduct observed “explain(ing) how the observed conduct, when viewed in the context of all of the other circumstances known to the officer, was indicative of criminal activity” Crosby, 408 Md. at 508, 970 A.2d at 904 (citations omitted), and the facts and inferences drawn therefrom must reasonably warrant the intrusion at issue, see Terry, 392 U.S. at 21.
(State of Maryland v. Michael Eugene Stone, No. 16, Sept. Term 2025, 2026 WL 202095 Md., p. 43, Jan. 27, 2026; also, State of Maryland v. Williams, 401 Md. 676, 2007)

The way traffic violations are captured from its inception, most critical to cases that results in follow-on legal actions

like civil rights Section 1983 cases (Petitioner's case) and suppression hearings, has not kept up with our present technological capabilities. Stipulating that objective corroboration must accompany the objective reasonableness standard is a prudent method for ensuring particularized facts are the basis of a stop and pretextual traffic stops that violate the Fourth Amendment are constrained or eliminated because they are uncorroborated from their inception. This restores the mandate of this Court of 'Equal Justice Under Law'—ensuring that constitutional seizures are indeed based on indicia of reliability especially in an environment where ubiquitous, non-criminal behavior, such as using GPS while driving, can subject individuals to unpredictable seizures.

CONCLUSION

Rehearing of this Petition by the U.S. Supreme Court is warranted because the Maryland Supreme Court's decision in *Maryland vs. Eugene Stone* (2026) has squared a conflict between Maryland's lawful-use statutes, the Whren stop and the Fourth Amendment. This case is perfect to consider a state's decision to invalidate the "visual glance" of an officer with regards to ascertaining the lawfulness or unlawfulness of acts related to initiating a traffic stop based reasonable suspicion.

Strengthening the framework for objective reasonableness does not decrease or threaten the current level of discretion of police officers and/or the judiciary. It improves decision-making, and public safety and judicial efficiency by defining and distinguishing the objective basis for a traffic stop. Objective corroboration benefits not only the public at large by increasing confidence in the legal process, but it also increases efficiency of law enforcement who will be equipped with evidence of wrongdoing to present to the driver and court. The judiciary benefits from improved efficiency and integrity when deciding cases.

Finally, this Petitioner respectfully notes that the Fourth Amendment's protections are not otherworldly feelings of security that have no real world benefit. For everyday individuals, an unconstitutional seizure can result in significant expenses and human toll beyond the moment of the incident. In this case, the resulting arrest and detention led to immediate financial and personal upheaval—including costs for bail, towing fees, additional rental car expenses and professional disruption—at a time when Petitioner was already navigating the effects of a family member suffering from a terminal illness that resulted in unexpected travel expenses.

Lastly, by granting rehearing, this Court can ensure that city governments and police departments do not incentivize for financial benefit the policing of certain acts that are so ubiquitous to American life that the majority of the U.S. population could become a victim of an unlawful seizure, no matter how brief that seizure could be. The 'Objective Reasonableness' standard test or assessment must act as a meaningful safeguard against, uncorroborated intrusions into the lives of law-abiding individuals.

APPENDIX

Has Reasonable Suspicion Been Established by Touching
The Screen of or Holding Cellphone? Court Rulings

No	Yes
1. United States v. Paniagua-Garcia, 813 F.3d 1013, 1014 (7th Circuit, 2016),	1. State v. Struve, 956 N.W.2d 90, 94 (Iowa, 2021), the Supreme Court of Iowa --stop to resolve ambiguity
2. State v. Morsette, 924 N.W.2d 434, 435-36 (North Dakota, 2019)	2. State v. Dalton, 850 S.E.2d 560, 566 (North Carolina Ct. App. 2020)
3. People v. Corrales, 152 Cal. Reporter. 3d 667, 669-70 (California Ct. App. 2013),	3. State v. Nguyen Ngoc Pham, 433 P.3d 745, 746 (Oregon Ct. App. 2018)
4. State v. Rabanales-Ramos, 359 P.3d 250, 253 (Oregon Ct. App. 2015)	

Table 1 -- Cases where reasonable suspicion has or has not been established by touching the display screen or holding a cellphone