

No. _____

In the Supreme Court of the United States

JAMES T. WEISS,
Petitioner,

v.

UNITED STATES OF AMERICA,
Respondent.

ON PETITION FOR WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

In *Michigan v. Summers*, 452 U. S. 692, 704–05 (1981), this Court held that pursuant to a lawfully executed search warrant, officers have a limited authority to detain an individual during the search. However, this Court did not address the issue of custodial interrogation during such a detention. See *United States v. Kim*, 292 F.3d 969, 976 (CA9 2002). This Court also has not provided “criteria for identifying “special circumstances” for determining when a detention is “prolonged”; in particular, it fails to tell law enforcement officers whether a detention will always be permissible, however protracted, so as it does not exceed the length of the search ***.” See *Summers*, 452 U. S. at 712 (Stewart J. dissenting, Brennan and Marshall JJ., joined). This case tests whether federal agents exceeded this limited authority when they detained and then interrogated the target of a search warrant for one hour and forty-minutes without reading him his rights pursuant to *Miranda v. Arizona* by presenting the following questions:

1. Whether police officers executing a search warrant must provide *Miranda* warnings to an individual who is detained pursuant to the search warrant and interrogated?
2. What are the criteria for identifying “special circumstances” or for determining when a detention is “prolonged” in relation to a search warrant detention?

RELATED PROCEEDINGS

United States District Court (N.D. Ill.):

United States V. James T. Weiss, No. 19-cr-00805 (Oct. 25, 2023) (judgment entered)

United States Court of Appeals (CA7):

United States v. James T. Weiss, No. 23-2096 (Jul. 17, 2023) (judgment)

United States v. James T. Weiss, No. 23-3094 (Aug. 28, 2025) (judgement)

United States v. James T. Weiss, No. 23-3094 (Oct. 21, 2025) (rehearing denied)

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The Seventh Circuit's opinion is not yet reported and reproduced in the Appendix at App.3-27.

The Northern District of Illinois's opinions are reproduced in the Appendix at App.31-89.

JURISDICTION

The Seventh Circuit's decision was entered on August 28, 2025. The Seventh Circuit denied rehearing on October 21, 2025. This Court has jurisdiction under 28 U.S.C. §1254(1).

STATUTORY PROVISIONS INVOLVED

U.S. Const., Amdt. V provides in relevant part: "No person * * * shall be compelled in any criminal case to be a witness against himself"

U. S. Const., Amdt. IV:

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

STATEMENT OF THE CASE

In *Michigan v. Summers*, 452 U. S. 692 (1981), this Court held that pursuant to a lawfully executed warrant, the officers involved in searching a home have limited authority to detain the occupants during the search. This case tests whether federal agents exceeded this limited authority when they executed a search warrant, seized the target of the search warrant, and instead of conducting a search, interrogated the target for one hour and forty minutes without reading him his rights pursuant to *Miranda v. Arizona*, 384 U. S. 436 (1966).

In October 2019, Weiss was the target of a criminal investigation into political corruption. FBI agents had obtained a search warrant for Weiss's person and his cell phone. To execute the search warrant, the agents pulled Weiss over by activating the lights on their vehicle. The Agent's admitted Weiss was not free to leave until the search warrant was completely executed. Weiss was not in violation of any criminal or traffic laws at the time he was seized by the Agents. Weiss submitted to the show of authority and pulled over immediately. The Agent's approached Weiss's vehicle, identified themselves, and directed Weiss to move his vehicle off the main road and to another location onto a side street. The agents admitted they chose the specific location to seclude him from the public. Weiss complied and drove to the identified location.

The agents then approached Weiss's vehicle and said that they needed to speak with him. At the Agent's direction Weiss then turned off his vehicle, exited his vehicle, and then sat in the FBI car with the

Agents. The Agents did not inform Weiss of the search warrant and instead began to interview Weiss in relation to criminal activity. The interview of Weiss continued for approximately one hour and forty-minutes. Towards the end of this interview the Agents asked Weiss to get his cellular phone from his car. Weiss retrieved his phone and returned to the law enforcement vehicle. An agent was with Weiss at all times, including when he went to his vehicle at the request of Law Enforcement to retrieve his phone. When the interview terminated the agents informed Weiss that they had a search warrant for his phone, and they need to take his phone. Weiss then gave the phone and pass-code to the Agents.

Weiss was never informed of his *Miranda* rights prior to, during, or after the interview. Weiss was only told by the agents that the interview was “voluntary” after the interview had already begun and after he was locked and secluded in the FBI vehicle. During the interview Weiss made statements to the agents which were introduced at trial and the basis of his conviction.

The basis for federal jurisdiction in the court of first instance was 18 U.S.C. §3231. Under 28 U.S.C. §547, the U. S. Attorney initiated a prosecution, and Weiss was indicted for violations of 18 U.S.C. §§ 666, 1001, 1341, 1343, and 1346. Weiss moved to suppress the statements made during the interview arguing that he was the target of the search warrant, was not free to leave, and was in custody for purposes of *Miranda* when he was seized by the Agents to execute the search warrant. Weiss also argued that the detention was prolonged and there were special circumstances, I.E., he was the target of the search warrant, there

was a deviation from the search into a one hour and forty-minute interrogation, and the questions were not limited in scope or duration.

Despite being seized involuntarily pursuant to a search warrant, both the district court and the Seventh Circuit applied the no custody/reasonable person standard set forth in *Burns* and decided that Weiss was not “in custody” for *Miranda* purposes when he spoke with the agents in their vehicle after they pulled him over because a reasonable person in defendant’s position would have felt free to leave. App.9-13. The statements made by Weiss during the interview were introduced at trial and Weiss was convicted on all counts in the indictment.

REASONS FOR GRANTING THE PETITION

This petition should be granted because all the compelling reasons this Court historically considers in granting Certiorari are present. The search and seizure of Weiss was unusual. *Kremen v. United States*, 353 U. S. 346, 347 (1957) (unusual search and seizure is a compelling reason to grant certiorari) Usually, a search warrant is issued to search a premises and seize physical items relating to criminal activity. Only the occupants of the premises to be searched are detained. Here, the search warrant ordered the seizure of Weiss, the search of his actual person, and then the seizure of his cellular phone. Weiss was also the actual target of the search warrant and not a mere occupant of the premises to be searched. Also, after seizing Weiss pursuant to the search warrant, the officers deviated into a one hour and forty-minutes interrogation instead of continuing the search. Only after the

prolonged interrogation did the Officer's inform Weiss of the actual search warrant and returned to executing the search warrant.

The questions presented by Weiss are important because they relate to the administration of criminal justice, more particularly, interrogations during search warrant detentions.¹ These questions are not purely local or private matters, never again to be repeated. Indeed, search warrants, interrogations, and detentions will occur daily throughout the country, effecting the Government, the Courts, and the Public. The questions presented by Weiss are the very essence of questions of such importance that should be decided by this Court. *Rice v. Sioux City Mem'l Park Cemetery*, 349 U. S. 70 (1955). Moreover, if the questions are answered in Weiss's favor the Court must order a new trial since Weiss's Constitutional rights have been violated because his conviction is based, in whole or in part, on his statements made to the FBI, in violation of the Fourth and Fifth Amendments. See *Miranda v. Arizona*, 384 U. S. 436 (1966); *United States v. Tateo*, 377 U. S. 463 (1964), *Giordenello v. United States* 357 U. S. 480, 488 (1958).

Certiorari should also be granted because clarification in the law is needed since the Seventh Circuit has decided important questions of federal law that have not been but should be settled by this Court. See *City*

¹ See *Jones v. United States*, 362 U. S. 257 (1960) overruled by *United States v. Salvucci*, 448 U. S. 83, 100 (1980) (administration of justice question important); *Elkins v. United States*, 364 U. S. 206, 208 (1960). *Aguilar v. State of Tex.*, 378 U. S. 108 (1964) abrogated by *Illinois v. Gates*, 462 U. S. 213 (1983) (administration of justice question is important).

& Cnty. of San Francisco, Calif. v. Sheehan, 575 U. S. 600, 610 (2015). (certiorari jurisdiction exists to clarify the law). As explained earlier, this Court did not address the issue of custodial interrogation during search warrant detentions in *Summers* and has not answered the question of whether police officers executing a search warrant need not give *Miranda* warnings to an individual who is detained and questioned during the execution of the search warrant. See *United States v. Kim*, 292 F.3d 969, 976 (CA9 2002). This Court also has not provided criteria for identifying “special circumstances” or for determining when a detention is “prolonged”; in particular, it fails to tell law enforcement officers whether a detention will always be permissible, however protracted, so as it does not exceed the length of the search. See *Summers*, 452 U. S. at 712 (Stewart J. dissenting, Brennan and Marshall JJ., joined).

Clarity in the law is also needed because the Seventh Circuit applied the *Burns* no custody/reasonable person standard which conflicts with the search warrant interrogation standards set forth in the First, Ninth, and Tenth Circuits. In *Mittel-Carey* the First Circuit held that a suspect seized subject to a duly issued search warrant is entitled to be free from excessive questioning intended to elicit incriminating information and applies a scope and duration standard to determine custody for *Miranda* purposes. *United States v. Mittel-Carey*, 456 F. Supp. 2d 296, 304 (D. Mass. 2006), aff'd, 493 F.3d 36 (CA1 2007). The Seventh Circuit's decision conflicts with *Mittel-Carey* because it applies the no custody/reasonable person standard, not a scope and duration approach. The Seventh Circuit authorizes excessive questioning without

Miranda, which is not limited in scope or duration, and which is intended to elicit incriminating information when a suspect is seized pursuant to a search warrant. Indeed, had Weiss been arrested in the First Circuit his motion to suppress would have been sustained because the questioning was not limited in scope and duration.

In *Kim*, the Ninth Circuit found that *Summers* requires *Miranda* warnings if the police ask questions going beyond a brief Terry-type inquiry. *Kim*, 292 F.3d at 976 (CA9 2002). The Seventh Circuit decision conflicts with *Kim* because the Seventh Circuit applies the no custody/reasonable person standard set forth in *Burns* which allows for questions beyond a brief Terry-type inquiry without *Miranda* warnings. Again, had Weiss been arrested in the Ninth Circuit his motion to suppress would have been sustained.

The Seventh Circuit's decision also conflicts with *United States v. Revels*, 510 F.3d 1269 (CA10 2007). The Seventh Circuit applies a no custody rule/reasonable person standard while the Tenth Circuit applies a three-factor approach as to whether the person is in custody for *Miranda* purposes during such a detention: (1) circumstances demonstrated police-dominated atmosphere; (2) nature and length of officers' questioning was accusatory or coercive; and (3) police made suspect aware that she was free to refrain from answering questions, or to otherwise end interview. *Id.*

Clarity in the law is further needed because the Seventh Circuit's decision conflicts with its own no custody rule set forth in *United States v. Burns*, 37 F.3d 276 (CA7 1994). *Burns* held "a suspect who is detained during the execution of a search warrant has not

suffered a restraint on freedom of movement of the degree associated with a formal arrest and is thus not in custody for purposes of *Miranda*.” *Burns*, 37 F.3d at 281. However, with Weiss, the Seventh Circuit found that a person can be “in custody” for purposes of *Miranda* when detained pursuant to a search warrant and then applies a reasonable person standard, even though *Burns* expressly states a person cannot be in custody for purposes of *Miranda* in a search warrant seizure. App.11.

Additionally, the Seventh Circuit carved out an exception to the Fourth and Fifth Amendments by allowing for State and Federal Law Enforcement to seize targets of search warrants in traffic, without probable cause, so as to conduct interrogations without *Miranda*. In essence, armed with a search warrant Law Enforcement can stop vehicles and delay in execution of the warrant to conduct interrogations. It allows for prolonged detention and for impermissible coercion. Targets of search warrants are deprived of their ability to make a rational choice about whether to provide statements to Law Enforcement Agents since the warrant is being concealed from the individual.

In doing so the Seventh Circuit has so far departed from the accepted and usual course of judicial proceedings, or sanctioned such a departure by a lower court, as to call for an exercise of this Court's supervisory power. See *United States v. Knowles*, 2 F. Supp. 2d 1135, 1137–38 (E.D. Wis. 1998) (hiding warrant during interview is improper); Indeed, “*Summers* held the type of detention imposed here is not likely to be exploited by the officer or unduly prolonged in order to gain more information because the information the officers seek normally will be obtained through the

search and not through the detention.” *Summers*, 452 U. S. 692. However, the Seventh Circuit allows for the target of the search warrant to be affirmatively misled to believe that the stop is not pursuant to the search warrant, when in fact, the Agents have a search warrant in their possession and have every intention of continuing in executing the warrant upon completion of the interview, and the person is not free to leave. The Seventh Circuit is allowing for officers to exploit or prolong the detention authorized by *Summers* so as to gain more information which would not be obtained through the search by allowing the interrogation without *Miranda*.

CONCLUSION

This Court should grant certiorari.

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