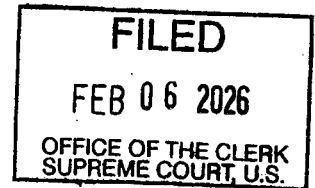


26-5402

ORIGINAL

No. USDC W.D. Wash. No. C23-6027 JNW

IN THE  
SUPREME COURT OF THE UNITED STATES



Nicolas Aaron Clark — PETITIONER  
(Your Name)

vs.

Jeffery Perkins, Et Al — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

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

PETITION FOR WRIT OF CERTIORARI

Nicolas Aaron Clark #418966  
(Your Name)

Coyote Ridge Correction Center  
P.O. Box 769 Unit H-B-36-24  
(Address)

Conwell, WA 99326  
(City, State, Zip Code)

(Phone Number)

### QUESTION(S) PRESENTED

Whether the police's continued interaction with Petitioner, Nicolas Clark, including references to under *Miranda v. Arizona*, constituted custodial interrogations in violation of the Fifth and Fourteenth Amendments, where the circumstances indicated he was not free to leave despite assurances to the contrary.

Whether compelling or eliciting a cell phone passcode from Petitioner, even if volunteered, violates the Fifth Amendment's privilege against self-incrimination when obtained during a custodial setting following the invocation of rights, particularly in light of conflicting state court rulings on the testimonial nature of passcodes.

Whether the execution of the search warrant, including detaining Petitioner on an enclosed porch with a blocked exit and providing insufficient time to review the warrant, amounted to an unreasonable seizure under the Fourth Amendment.

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Whether *Stone v. Powell*, 428 U.S. 465 (1976), is unconstitutional insofar as it bars federal habeas review of state court Fourth Amendment determinations, thereby undermining federal supremacy and the uniform application of federal constitutional law.

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## LIST OF PARTIES

☐ All parties appear in the caption of the case on the cover page.

☒ All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

Jefferey Perkins [Respondent] and  
Melissa Andrewjeski; Superintendents [Respondent]  
Nicolas Aaron Clark [Petitioner]

## RELATED CASES

*Miranda v. Arizona*, 384 U.S. 436 (1966)

*Edwards v. Arizona*, 451 U.S. 477 (1981)

*Riley v. California*, 573 U.S. 373 (2014)

*Michigan v. Summers*, 452 U.S. 692 (1981)

*People v. Sneed*, 2023 IL 127968 (Ill. 2023)

*State v. Andrews*, 243 N.J. 447 (N.J. 2020)

*State v. Valdez*, [Utah Supreme Court case, 2024]

*In re Grand Jury Subpoena*, [relevant circuit case]

*Oregon v. Elstad*, 470 U.S. 298 (1985)

*Berghuis v. Thompson*, 560 U.S. 370 (2010)

*Katz v. United States*, 389 U.S. 347 (1967)

### Related Cases (cont.)

*Hunter v. Southam Inc.*, [1984] 2 S.C.R. 145 (CANADIAN CASE, ANALOGOUS)

*Strickland v. Washington*, 466 U.S. 668 (1984)

*Rothgery v. Gillespie County*, 554 U.S. 191 (2008)

*Brown v. Mississippi*, 297 U.S. 278 (1936)

*Chambers v. Florida*, 309 U.S. 227 (1940)

*Stone v. Powell*, 428 U.S. 465 (1976)

*McNeil v. Wisconsin*, 501 U.S. 171 (1991)

*Maryland v. Shatzer*, 559 U.S. 98 (2010)

### Constitutional Provisions

U.S. Const. Amend. IV

U.S. Const. Amend. V

U.S. Const. Amend. VI

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U.S. Const. Amend. XIV, § 1

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28 U.S.C. § 1257 (a)

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APPENDIX D - *Ruling in the Court of Appeals of the State of Washington, Division II*

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IN THE  
SUPREME COURT OF THE UNITED STATES  
  
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

**OPINIONS BELOW**

☒ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix A to the petition and is

☐ reported at \_\_\_\_\_; or,

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

☒ is unpublished.

The opinion of the United States district court appears at Appendix B to the petition and is

☐ reported at \_\_\_\_\_; or,

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

☒ is unpublished.

☒ For cases from **state courts**:

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The opinion of the highest state court to review the merits appears at Appendix C to the petition and is

☐ reported at \_\_\_\_\_; or,

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

☒ is unpublished.

The opinion of the Washington State Court of Appeals Division Two court appears at Appendix D to the petition and is

☐ reported at \_\_\_\_\_; or,

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

☒ is unpublished.

## JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was November 20, 2025 \_\_\_\_\_.

☒ No petition for rehearing was timely filed in my case.

☐ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: \_\_\_\_\_, and a copy of the order denying rehearing appears at Appendix \_\_\_\_\_.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including \_\_\_\_\_ (date) on \_\_\_\_\_ (date) in Application No.   A   \_\_\_\_\_.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☐ For cases from **state courts**:

The date on which the highest state court decided my case was \_\_\_\_\_.  
A copy of that decision appears at Appendix \_\_\_\_\_.

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☐ A timely petition for rehearing was thereafter denied on the following date: \_\_\_\_\_, and a copy of the order denying rehearing appears at Appendix \_\_\_\_\_.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including \_\_\_\_\_ (date) on \_\_\_\_\_ (date) in Application No.   A   \_\_\_\_\_.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Fourth Amendment provides: "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."

The Fifth Amendment provides: "No person... shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law."

The Sixth Amendment provides: "in all criminal prosecutions, the accused shall enjoy the right... to have the assistance of Counsel for his defense."

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The Fourteenth Amendment, Section 1, provides: "... nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

28 U.S.C. § 1257 (a) provides: "Final judgments or decrees rendered by the highest court of a state in which a decision could be had, may be reviewed by the Supreme Court by writ of certiorari where the validity of a statute of the United States is drawn in question... or where any right... is claimed under the Constitution..."

## STATEMENT OF THE CASE

On October 5, 2018, police executed a search warrant at Petitioner Nicolas Clark's residence. Officers knocked, pulled Clark onto the front porch, and entered with at least eight armed officers, including the FBI and a K-9 unit. The porch was partially enclosed with only one exit, blocked by two armed detectives. Clark was handed the warrant but given mere seconds to glance at it before questioning began.

The recorded interaction proceeded as follows: After confirming recording and identity, police advised Clark he was free to leave and not under arrest but read Miranda warnings due to the criminal investigation. Clark affirmed understanding and declined to talk. Police acknowledged this but immediately referenced the warrant's provision for biometric ID to unlock his phone, stating they would proceed with that. Clark then offered and provided his passcode: 696369. As his phone was not locked biometrically, only by passcode. (See Appendix E).

Based on information from the phone, Clark was arrested, charged, and convicted in state court.

## REASONS FOR GRANTING THE PETITION

This case presents critical questions about the protection of constitutional rights during warrant executions and interrogations, with deep circuit and state splits on key issues. Certiorari is warranted to resolve these conflicts and ensure uniform application of the Amendments.

### *I. The Interaction Violated the Fifth and Fourteenth Amendments by Continuing Custodial Interrogation After Invocation of the Right to Remain Silent, Eliciting Testimonial Act.*

Under *Minanda v. Arizona*, 384 U.S. 436 (1966), custodial interrogation must cease upon invocation of the right to remain silent. Here, Clark explicitly declined to talk, yet police continued, refreshing the biometric unlock to prompt a response. This constituted interrogation, as it was reasonably likely to elicit an incriminating response—namely, the passcode. See *Rhode Island v. Innis*, 446 U.S. 291 (1980). Custody existed despite verbal assurances: Clark was pulled from his home, separated from his wife, and detained on an enclosed porch with the only exit blocked by armed officers, mirroring *de facto* arrest. See *Orozco v. Texas*, 394 U.S. 324 (1969); facts indicate deprivation of freedom in a significant way. This violates due process under the Fourteenth Amendment, incorporating Fifth Amendment protections. See *Malloy v. Hogan*, 378 U.S. 1 (1964).

The passcode itself is testimonial, as courts increasingly recognize: *Compelling disclosure implicates self-incrimination, unlike non-testimonial/biometrics*. See *People v. Sneed* (2/11/2023), holding compulsion violates Fifth Amendment; *State v. Valdez*

(Utah 2024), affirming passcodes as protected statements. Conflicts with cases like *State v. Andrews* (N.J. 2020), highlighting the need for resolution. Even if "volunteered," the context of post-invocation pressure renders it coerced, akin to *Brown v. Mississippi*, 297 U.S. 278 (1936), where due process bars involuntary confessions.

### II. The Warrant Execution Violated the Fourth and Fourteenth Amendments Through Unreasonable Seizure and Insufficient Opportunity to Review.

The Fourth Amendment requires reasonable searches and seizures. Detaining Clark during the search is permissible under *Michigan v. Summers*, 452 U.S. 692 (1981), but the manner—pulling him out, blocking the exit, and affording only seconds to read the warrant—exceeds reasonableness. Warrants must be presented for inspection, implying meaningful opportunity. See *United States v. Grubbs*, 547 U.S. 90 (2006). The phone search per *Riley v. California*, 573 U.S. 373 (2014), requires a warrant, but compelling access post-invocation taints it. This unreasonableness violates due process under the Fourteenth Amendment.

### III. The Absence of Counsel Implicates the Sixth and Fourteenth Amendments.

While Sixth Amendment counsel attaches at adversarial proceedings, *Rothenberg v. Gillespie County*, 554 U.S. 191 (2008), the critical nature of this pre-arrest stage—warrant execution leading directly to evidence and arrest—argues for extension, especially after *Miranda* invocation. Alternatively, substantive due process under the Fourteenth Amendment demands counsel to prevent coercion. See *Chambers v.*

Florida, 309 U.S. 227 (1940).

IV This Case Merits Review to Clarify Protections in Digital Era Interrogations.

State splits on passcode compulsion and custody definitions demand uniformity. Granting certiorari will safeguard rights amid evolving technology.

V. Separate Argument on the Unconstitutionality of *Stone v. Powell*

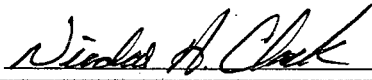
*Stone v. Powell*, 428 U.S. 465 (1976), holds that federal habeas corpus relief is unavailable for Fourth Amendment claims if the state provided a full and fair litigation opportunity, even if erroneous. This rule is unconstitutional, as it abdicates federal courts' duty to enforce federal constitutional law, violating the Supremacy Clause (U.S. Const. Art. VI, cl. 2).

The Supremacy Clause mandates federal law as supreme, binding states judges. Yet, *Stone* insulates state errors from federal review, undermining uniformity and allowing divergent interpretations. Critics argue it erodes habeas's role in vindicating federal rights, prioritizing finality over accuracy. Federal supremacy requires oversight; without it, states become final arbiters of federal questions, contrary to *Marbury v. Madison*, 5 U.S. 137 (1803). *Stone*'s presumption of state competence ignores historical federal habeas expansions to ensure supremacy. Overruling *Stone* would restore federal courts' primacy in constitutional enforcement.

## CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

  
\_\_\_\_\_

Date: February 6, 2026