

No. USCA5 No. 25-50667

July 29, 2026

ORIGINAL

IN THE **26-5645**

SUPREME COURT OF THE UNITED STATES

SHAWN L SANDERS - PETITIONER

VS.

ANTHONY A. ARNOLD - RESPONDENT

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

PETITION FOR WRIT OF CERTIORARI

Shawn Sanders

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N/A phone Number

Supreme Court, U.S.
FILED

APR 15 2026

OFFICE OF THE CLERK

RECEIVED

AUG 13 2026

OFFICE OF THE CLERK
SUPREME COURT, U.S.

QUESTION(S) PRESENTED

1. Whether the practice of holding a person for trial on an new information re-charge without a judicial determination of probable cause is unconstitutional under Federal Statute and Constitution due to the IV and XIV amendment, and the court did not agree that U.S Const amend IV required the determination of probable cause to be in the form of an adversary hearing without re-arrest.

2. Whether a metro transit police official can patrol the streets making traffic stops and/or arrest unless the offenses in question originated on or against transit facilities, and whether it is a IV amend violation to arrest a passenger who committed no crime within his view.

LIST OF PARTIES

1. Anthony A. Arnold, Assistant Bexar County District Attorney
2. Brandon Tamayo, Metropolitan Transit Police Department

Related CASES

SHAWN L. SANDERS v. ANTONY A. ARNOLD, Assistant Bexar County District Attorney's office and BRANDON TAMAYO, Metropolitan Transit Police Department in the United States District Court for the Western District of Texas USDC No. 5:25-CV-625.

SHAWN L SANDERS v. ANTONY A. ARNOLD, ADA and BRANDON TAMAYO, MTPD in the United States Court of Appeals for the Fifth Circuit No. 25-50667

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APPENDIX A Decision of the United States District Court
for the Western District of Texas has already
been sent to the Office of the Clerk and
filed.

APPENDIX B Decision of United States Court of Appeals
for the Fifth Circuit

No. PD-0067-26

APPENDIX A Decision of the Fourth Court
of Appeal of Texas

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STATUTES AND RULES

Fourth Amendment protection - Neutral and Detach Magistrate clause for probable cause to be decided by a Neutral Magistrate.

Fourteenth Amendment protection - Deprivation of liberty without due process of law do to the ADA untimely adversary hearing to determine probable cause without arrest or Magistrate proceedings.

Via bus Transit Police Lack jurisdiction and authority to arrest a passenger in someone else vehicle under Texas Transportation Code section 451.001 and 451.108, 452.110 Tex. Code Crim. Proc. article 44.01(d)(i) Tex. R. App P. 26.2(6) and 18 U.S.C 3731 Thirty Day rule for Government Appeal

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

Federal courts:

The opinion of the United States District Court for the Western District of Texas appears at Appendix A to the petition and is reported at Sanders v. Arnold, 2025 U.S. Dist. Lexis 141235 Date Jul 22 2025 Publication.

The opinion of the United States Court of Appeals for the fifth Circuit appears at Appendix B to the petition and is reported publication at Sanders v. Arnold Case 25-50667 Date 03/30/2026 with a copy.

JURISDICTION

Federal court

The date on which the United States Court of Appeal decided my case was 03/30/2026

A timely petition for rehearing was denied by the United States Court of Appeals on the following date 03/30/2026, and a copy of the order denying rehearing appears at Appendix B. Furthermore, on June 2 2026 the clerk return petitioner petition with 60 days to correct it.

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

A common thread connects the Government's appeal rights in section 3731. The beginning of each section of the statute indicates that the Government's appeal shall lie to a court of appeals from a decision, order, or judgment of a district court judge. The statute also does not expressly permit the Government to appeal a dismissal of a case at a preliminary hearing upon the judge's finding that the case is not supported by probable cause. (See) United States v. De La Rosa 426 F Supp 3d 722 - Order denying Government's appeal of Magistrate Judge Decision.

The statute also does not expressly permit the Government to appeal a dismissal of a case at a preliminary hearing upon the judge's finding that the case is not supported by probable cause.

On January 8, 2022 the transit cop who lack jurisdiction and whom was untrain spilled the allege substance all over the hood of his vehicle and on the ground, while it was raining and very wet outside.

The officer scoop it all back up and put the allege substance back inside the container and then weightrig the allege substance outside in the open instead of weighted it inside his vehicle.

After the officer cross-contaminated by intentionally altered the weight by filling up the container with water.

The officer did a drug field test kitt and did not get a positive Brown color for methamphetamine.

It took the officer about 5 to 6 mins to get a very, very lite blue color due to the cross-contamination.

All of this can be proven by the transit bus cop body-cam. So on January 8 2022 Bexar County Magistrate did not sign the detention warrant did not sign the arrest warrant nor did the Magistrate judge transfer the case in order to give the trial court in 226th Bexar County jurisdiction this charge has no Magistrate docket number this charge has no cause number accept count III from the ADA adversary hearing without jurisdiction and every count should have it own cause number.

An expert-witness that knows about methamphetamine will tell you that, that was not methamphetamine due to the ingredients of methamphetamine when water mix with methamphetamine it turns it to liquid and all it takes it a little drop of water. Meth is made from tablet pills or tablet pharmacy pills which when a person take a pill it dissolve in his or her body and meth is made from sudafed pills, pseudoephedrine pills, phenylephrine all tablet pharmacy pills. If the meth was real it would of not made it after the officer mix it with the rain water trying to intentionally increase the weight so that I may receive more time.

Petitioner has 25 years for an empty container the evidence was destroyed years before the APA refiled it without jurisdiction, evidence nor did he have the statutory authority to do

so.

ADA Anthony A. Arnold violated petitioner federal protected statute law under 18 U.S.C.S 3731, the government has 30 days in which to appeal from a district courts dismissal of an information. The applicable statute of limitation is the primary guarantee against bringing overly stale criminal charges.

In Texas state law under Tex. Code Crim. Proc. Ann art. 44.01(d) and Tex. R. App. P. 26.2(b) strictly limits the State's right to appeal and strictly construes the deadlines. Art. 44.01(d) mandates:

The notice of appeal must be filed within 20 days after the day the order, ruling, or sentence to be appealed is entered. Tex. R. App. P. 26.2 is to the same effect. Here, the magistrate's dismissal order was entered on January 8 2022, and the State fail to file it notice by January 28 2022. The state re-charge the case on April 9, 2024 without a new arrest 850 days later, beyond the statutory 20-day window. Because the timetable is jurisdictional an untimely notice cannot confer jurisdiction. pg. 6

Petitioner has the same issue in his case as to Gerstein v. Pugh, 420 U.S. 103 - Petitioner state attorney had sought review of a judgment of the United States Court of Appeal for the Fifth Circuit, affirming and holding a person for trial on an information without a judicial determination of probable cause for detention was unconstitutional by the circuit court.

The district court ordered an adversary determination of probable cause. The ADA had a separate determination of probable cause 850 days after magistrate dismissal from a warrantless arrest.

To implement the U.S. Const. Amend. IV protection against unfounded invasion of liberty and privacy, the Supreme Court requires that the existence of probable cause be decided by a neutral and detached magistrate whenever possible. It is the right one placed under arrest to submit to custody and to reserve his defense for Neutral tribunals. Probable cause cannot be found from submissiveness and the presumption of innocence is not lost or impaired by neglect.

A search is not to be made legal by what it turns up, in law it is good or bad when it starts and does not change character from it's success.

Under Tex Transp Code 452.110

(d) A railroad peace officer may not issue a traffic citation for a violation of chapter 521, transportation code, or subtitle C, title 7, Transportation Code.

(e) A railroad peace officer is not entitled to state benefits normally provide by the state to a peace officer.

On January 8, 2022 petitioner was a passenger in a vehicle and petitioner / passenger was held at gun point by Via transit police and almost killed without committed a crime as a passenger due to the transit police officers was untrain under the 4th amendment constitutional protection.

The transit officer's search petitioner / passenger 2 times back to back in handcuff and then mishandled the allege evidence by cross-contamination and a false positive of blue which is the wrong color for meth so the Magistrate dismiss that charge.

The district court dismiss the information. The court reversed, pg. 9
holding that a preliminary examination was not a condition
precedent to prosecution. Bear County 226th Judicial District
reversed, hold that a preliminary argument that the indictment
2022-CR-4036 was improperly amended to 2023-CR-3165
by the information because the first indictment was dismissed
before the count III information was filed. The court noted
that appellees could be charged for an offense on an information
that was not verified by affidavit showing probable cause
because there was no request for a warrant of arrest.
The court reversed the district court order which dismissed
an information charging appellee two persons with offenses
with the same probable cause that turn out to be
not true in bad faith and misconduct alone with
lack of subject matter jurisdiction by an unlawful
detain by transit bus cop for alter license plate with
intent to convert it to Unauth use of motor vehicle the
driver Sheppard, Randolph Jr. cases was dismissed
for constitutional values under the equal protection
of law if there's no probable cause for the driver
then there is no probable cause for the passenger. Under
the equal protection of law petitioner is entitled to a
preliminary examination prior to prosecution for the same information.

The United States Court of Appeals for the Ninth Circuit affirmed the preliminary injunction and held that the county's policy of providing probable cause determination at arraignment within 48 hours was not in accordance with constitutional requirement that such determination be made promptly after arrest, because no more than 36 hours was required to complete the administrative steps incident to arrest of the Federal Constitution Fourth Amendment, and such jurisdiction will be immune from systemic challenges to probable cause determination procedure.

(See) County of Riverside v. McLaughlin 500 U.S. 44 - The Court granted certiorari review of a judgment of the United States Court of Appeals for the Ninth Circuit which ordered petitioner county to provide probable cause determination within 36 hours of an individual arrest except in exigent circumstance.

The Court vacated the court of appeal's judgment. The Court stated that a jurisdiction providing determination of probable cause determination within 48 hours of arrest would comply with the promptness requirement, State must provide a fair and reliable determination of probable cause as a condition for any significant pretrial restraint of liberty and this determination must be made by a judicial officer either before or promptly after arrest. pg. 10

A prosecutor's responsibility to law enforcement is inconsistent with the constitutional role of a neutral and detached magistrate, Probable cause for the issuance of an arrest warrant must be determined by someone independent of police and prosecution is a fundamental right. There is no record of a detention warrant or arrest warrant for the controlled substance charge from January 8 2022 warrantless arrest with a Magistrate judge Signature for detention warrant or arrest warrant nor was this charge ever transfer to Bexar County 226th Courtroom for jurisdiction to trial the case.

In pre-deprivation hearing of Magistrate proceedings, the magistrate judge also generally has the power to reduce certain offenses which could be filed as either felonies or misdemeanor sometimes referred to as wobblers.

The APA deprived petitioner of that ordinances.

The Supreme Court did not agree that U.S Const amend. IV required the determination of probable cause to be in the form of an adversary hearing.

Fourteenth Amendment protect against deprivation of liberty only against those accomplished without due process of law.

Adversary hearing is not required and since the probable cause standard for pretrial detention is the same as that for arrest. The record will show after the ADA untimely appeal magistrate dismissal there was no re-arrest on appeal the record states and only states petitioner was arrest on January 8, 2022 but Magistrate dismiss the information and discharge that case without a bond hearing the case was never on any court docket the ADA untimely added this nolle prosequi offense to the indictment without the screening of a grand jury nor did the district court ~~impanel~~ impanel a grand jury do no arrest or subpoenas was ever made for this charge. The record will show that the trial was unsupported of probable cause or arrest warrant.

Defendant Via Transit Police B. Tamayo #385 lack jurisdiction and authority under transportation code section 451.001 and 451.108. This raises threshold question of whether railroad police officer are peace officers within the meaning of statute. They are not. Code defines peace officer as sheriff of a county, or a constable, marshal or policeman of a city town.

By comparison a railroad police officer is separately defined in the very next section of the code section 452.110 of the transportation code.

There was no evidence that petitioner / passenger placed any individual in immediate harm requiring a response from the officer.

When the officer relied upon a mistake of law and stopped the driver vehicle without any legal authority to do so, since it was outside his jurisdiction, he violated petitioner fourth Amendment right to be free from unreasonable search and seizure.

Where a Metropolitan Transit Authority police officer makes arrest outside his jurisdiction the officer violates the arrest individual fourth Amendment rights. The concept of reasonableness embodied in the Fourth amendment logically presupposes an exercise of lawful authority by a police officer when a law enforcement official acts beyond his or her jurisdiction, the resulting deprivation of liberty is just as unreasonable as an arrest without probable cause.

Metro Transit Police force in the Texas Transportation code 451.108 Peace officer subsec of the compact defines MTP jurisdiction as including all the transit facilities.

(Also see) *United States v. Simon*, 368 F Supp 2d 73 - In the context of D.C Code Ann 9-1107, DI subsec 76, the destruction of Washington Metropolitan Area Transit Authority property would clearly constitute a violation against transit facilities but a traffic violation near transit facilities cannot suffice. On January 8 2022 petitioner was arrested at gun point as a passenger in a vehicle he knew nothing about and the petitioner/passenger was the only one prosecuted from a probable cause that was created by someone else. On April 25, 2022 the court drop all 5 of the driver charges which his charges was the reason for the stop. On April 9, 2024 the ADA appeal magistrate dismissal two years after the unauth use of motor vehicle was dismiss Sheppard, Randolph Jr. was the driver and his cases was the probable cause or the reason for the stop in which petitioner/passenger had nothing to do with. Furthermore, a warrantless arrest executed outside of the arresting officer's jurisdiction is analogous to a warrantless arrest without probable cause. Absent exigent circumstances, such an arrest is presumptively unreasonable. Transit police force was established to protect transit facilities from offenses thereon, not to perform criminal investigation or to effect traffic stops on city streets, except in very limited circumscribed role of transit police.

This careful limitation on transit jurisdiction is part of the agreement reached among that states entering into the transit compact. Overstepping of its bounds is not an insignificant trespass. It is not reasonable for an officer to rely upon mistaken understanding of the law. Where the officer relies upon a mistake of law, he lacks the reasonable suspicion required for a constitutional traffic stop. Where a defendant's Constitutional rights have been breached, exclusion of unlawfully obtained evidence from trial is an appropriate remedy. (1) Petitioner committed no violation of traffic laws on MTP property as a passenger in someone else vehicle. (2) The driver traffic offense was not a violation against the MTP property. (3) There was no evidence that Petitioner/ Passenger Sanders placed any individual in immediate harm requiring a response from the officer.

STATEMENT OF THE CASE

On January 8, 2022 Magistrate determined there was no probable cause and did not sign a warrant for Petitioner/ passenger detention within an hour of petitioner arrest. The record will show this case has no cause number, never had a bond for this charge, there was a no-bill or indictment from grand jury after arrest and dismissal.

The ADA abandon the case for over two years. The ADA abandon appellate jurisdiction meaning this conviction is void due to lack of subject matter jurisdiction. An order entered without jurisdiction is void. Subject matter jurisdiction may be challenged at any time and cannot be waived. Whenever it appears by suggestion of the parties or otherwise that the court lacks jurisdiction of the subject matter, the court shall dismiss the action. Subject matter jurisdiction cannot be conferred by consent, waiver, or estoppel on the part of the accused. Thus, a convicted criminal defendant can on appeal attack subject matter jurisdiction, even though he failed to do so in the trial court.

REASONS FOR GRANTING THE PETITION

Under the facts presented, on January 8 2022 magistrate applied the proper test when discharging the drug offense at the close of the preliminary examination. The evidence introduced by the State was insufficient to support a finding by the Magistrate that it appeared the crime has been committed.

The order of the preliminary hearing judge discharging the petitioner for the reason that the State failed to show the crime has been committed is affirm. The State of Texas could not appeal because it would have been dismissed.

The primary reason for preliminary hearing is to protect an individual right against unlawful arrest and detention. It seeks to prevent a person from being imprisoned or required to enter bail for a crime which was never committed, or a crime which there is no evidence. It is not a trial in any sense of word, it does not purport or attempt to determine the guilt or innocence of accused, nor is he required to speak, plead or offer testimony in defense. The magistrate believes that probable cause to hold the petitioner has not been proven, he may terminate that proceeding. Thus, it has been firmly established under our law that a determination by a committing magistrate that a prima facie case has not been proven is interlocutory in nature and therefore not appealable. The prosecution brought without probable cause. The reason for not requiring notice if the petitioner is being bound over to the next term is that it is general practice for committing,

Magistrates and judges to bind defendant over to the next term of grand jury. (see) Commonwealth v. Johnson 440 Pa 342) (Commonwealth v. Rosenfield 220 Pa 105) and Commonwealth v. Sullivan 446 Pa 419.

CONCLUSION

The petition for a writ of certiorari should be granted

Respectfully submitted

Shawn Sanders #02519879

7-29-26