

NO. _____

IN THE
SUPREME COURT OF THE UNITED STATES

KENDLE RASHEN HAWKINS,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

On Petition for Writ of Certiorari to the
United States Court of Appeals for the Ninth Circuit

PETITION FOR WRIT OF CERTIORARI

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QUESTION PRESENTED

Since its landmark decision in *Wong Sun v. United States*, 371 U.S. 471 (1963), this Court has held to the basic principle that, with limited exceptions, unlawfully obtained evidence may not be exploited to obtain further evidence, even if the subsequent evidence is itself lawfully obtained. The Court has also held, in *Whren v. United States*, 517 U.S. 806 (1996), that a law enforcement officer may detain a motorist to investigate a traffic infraction, regardless of whether the officer's true motive is to investigate a wholly different offense, so long as there is probable cause to believe a traffic violation was committed.

This case lies at the intersection of these two principles. The question presented here is:

Does the fact that a traffic stop is lawful under *Whren* automatically purge the taint of a location tracking warrant that was not supported by probable cause but led officers to the vehicle, or must a court engage in an individualized analysis of whether the traffic stop was attenuated from, or independent of, the deficient warrant?

LIST OF PARTIES

The petitioner is Kendle Rashen Hawkins.

The respondent is the United States of America.

RELATED CASES

United States v. Kendle Hawkins, USDC No. 3:21-CR-05213-RSM/DGE (WDWA)

Judgment entered on December 19, 2024.

United States v. Kendle Hawkins, Ninth Circuit No. 24-7781, 2026 WL 1494059

(9th Cir. May 28, 2026) (unpublished). Rehearing denied on July 20, 2026.

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PETITION FOR WRIT OF CERTIORARI

Petitioner, Kendle Rashen Hawkins, respectfully petitions for a writ of certiorari to review the order and judgment of the United States Court of Appeals for the Ninth Circuit.

OPINION BELOW

The decision of the United States Court of Appeals for the Ninth Circuit, *United States v. Hawkins*, 2026 WL 1494059 (9th Cir. May 28, 2026) (unpublished), is found at Appendix C.

JURISDICTION

The Ninth Circuit entered judgment on May 28, 2026. (App. C at C-1). Petitioner moved for panel rehearing and rehearing en banc, which was denied on July 20, 2026. (App. A at A-1). Pursuant to Supreme Court Rules 13.1, 13.3 and 30.1, the deadline to file a petition for writ of certiorari is October 19, 2026.

The United States District Court for the Western District of Washington had jurisdiction pursuant to 18 U.S.C. § 3231. The Ninth Circuit Court of Appeals had jurisdiction under 28 U.S.C. § 1291 and 18 U.S.C. § 3742(a). This Court has jurisdiction under 28 U.S.C. § 1254(1).

CONSTITUTIONAL PROVISION INVOLVED

The Fourth Amendment to the United States Constitution 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, 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.

U.S. Const. amend. IV.

STATEMENT OF THE CASE

Petitioner Kendle Hawkins was charged in a two-count superseding indictment with possession of fentanyl with intent to distribute, and unlawful possession of a firearm by a previously convicted felon. (1-ER-002).¹ The charges arose after Petitioner, who was a passenger in a rental car driven by a friend, was detained during a traffic stop on Interstate 5 near Centralia, Washington. (1-ER-003-04).

The stop, however, was no mere happenstance. A multi-agency team of FBI agents, DEA agents, drug task force officers, and local police was positioned along the interstate, poised, as their own affidavit confessed, to conduct a traffic stop as soon as they observed an infraction. (*See* 1-ER-003-04; 3-ER-310). And, like the eighty or ninety percent² of motorists who occasionally exceed the posted speed

¹ References to the Ninth Circuit appellate Excerpts of Record shall be denoted in the following format: volume number-ER-page number.

² *See, e.g.*, NBC News, *Survey: Majority of drivers admit to speeding*, <https://www.kget.com/national-news/survey-majority-of-drivers-admit-to-speeding/>. *See also*, The Zebra, *Study: 9 in 10 Drivers Admit to Speeding Even Though a Third Say it's Unacceptable*, <https://www.thezebra.com/resources/research/speeding-car-insurance-rates/>.

limit, Mr. Hawkins's companion delivered. After officers observed him traveling eight miles over the speed limit, a squad car occupied by a local officer and his drug detection dog, as well as a Seattle task force officer, pulled the car over. (1-ER-004). Without even completing the pretextual traffic stop, the officer deployed the dog, who improbably alerted on the passenger door even though the dog was not certified to detect fentanyl, the drug ultimately recovered from the car. (1-ER-004). The alert led to the issuance of a search warrant, and during its execution, agents recovered a quantity of fentanyl and five unloaded firearms. (1-ER-004).

The events leading up to the traffic stop arose from an investigation into a large drug trafficking organization believed to be headed by an individual named Michael Walker (the "Walker DTO"). (1-ER-002). After two years of investigation, which included the use of multiple wiretaps and GPS tracking authorizations, Petitioner's name had never surfaced as associated with the DTO. However, in April 2021, a paid informant with the Seattle Police Department, who had prior convictions for making false statements, gave a tip implicating Petitioner in drug trafficking. (1-ER-003; 3-ER-308). Specifically, the informant told the police that a man named "Kendle," who lived in Arizona, drove rental cars carrying kilogram quantities of cocaine from Arizona to Seattle for further distribution to Kenneth Lee, a known member of the Walker DTO. (1-ER-003; 3-ER-308). Other than supplying the police with "Kendle's" cell phone number, the informant gave no additional information. (1-ER-003).

The case agent for the Walker DTO investigation, using law enforcement

databases, determined that the phone number was “associated with” an address in Phoenix that was “associated with” Kendle Hawkins, Petitioner herein, but was subscribed in a different name. (1-ER-003; 3-ER-308). The agent then inserted this information into an application for a warrant to track GPS location data for several phones known to belong to members of the Walker DTO. In the two paragraphs of the 37-page affidavit that pertained to Petitioner’s phone, the agent failed to advise the issuing magistrate that Lee, the only alleged connection between Petitioner and the Walker DTO, had been arrested several weeks earlier in connection with a multi-defendant takedown of members of the Walker DTO. (1-ER-005; 2-ER-086).

A few days after obtaining the GPS warrant, agents tracked Petitioner’s phone appearing to travel by air from Phoenix to Seattle, visit a few locations in the Seattle-Tacoma area, and return to Phoenix the following day. (3-ER-309).³ About three weeks after that, the agents observed the phone appearing to travel by car north from Phoenix. (1-ER-003; 3-ER-310). After tracking the phone traveling as far north as Sacramento, the agent sought a cell site simulator (“CSS”) warrant to allow law enforcement to more precisely pinpoint the phone’s location. (1-ER-003). The affidavit in support of the warrant contained no new information other than the Phoenix-to-Seattle trip, which was obtained through exploitation of location data from the GPS warrant. (2-ER-218-241).

³ The affidavit states that Mr. Hawkins’s phone returned to Phoenix the same night; however, after Mr. Hawkins provided copies of his flight itinerary, agents admitted that they had failed to convert time stamps from Greenwich Mean Time to local time. (2-ER-172 n.4; 2-ER-212).

After obtaining the CSS warrant and tracking the phone's movements, federal agents and task force officers enlisted local law enforcement to assist in a planned traffic stop, and a local officer, traveling with a drug detection dog and a task force officer, was selected to execute the stop as soon as a traffic violation was detected. (2-ER-161-62). During the traffic stop, which the government admitted in its reports was for the purpose of investigating suspected drug trafficking, officers deployed the dog to conduct a sniff of the car's exterior. (1-ER-004; 3-ER-326; 2-ER-263). Based on the dog's alert, agents obtained a search warrant and recovered fentanyl and firearms, leading to the instant charges. (1-ER-004).

Petitioner moved to suppress the fruits of the search, arguing that the original GPS warrant was not supported by probable cause. The district court agreed that the affidavit failed to establish probable cause, but concluded that because the traffic stop was supported by reasonable suspicion that the driver was speeding, the stop was valid, and the dog's alert provided probable cause to search. (App. F at F-4-5). After discharging his first lawyer and obtaining new counsel, Petitioner filed a second motion to suppress, arguing that both the GPS warrant and the subsequent CSS warrant were invalid, and that the traffic stop was not independent of either warrant. (1-ER-008-09). The district court denied that motion as well, employing similar reasoning. (App. E at E-1-3).

Petitioner ultimately pleaded guilty to one count of possession with intent to distribute fentanyl and one count of unlawful possession of a firearm, reserving the right to appeal the denial of his motions to suppress. (3-ER-374). He was

subsequently sentenced to 120 months in custody. (App. D at D-2).

Petitioner appealed his conviction to the United States Court of Appeals for the Ninth Circuit, asserting that the district court erred in denying his motions to suppress. Specifically, he argued that the district court correctly found that the GPS warrant was not supported by probable cause, and that because the case agent was well aware of the lack of corroboration of the informant's tip and failed to alert the magistrate judge to the staleness of the information and Petitioner's lack of connection to the DTO up to that point, the good faith exception did not apply. Further, he argued that the traffic stop was not independent of the tainted warrants, as demonstrated by the government's repeated acknowledgment that the purpose of the stop was to investigate drug trafficking, and by the improbability of the multi-agency team of law enforcement officers happening upon Petitioner without the data from the GPS and CSS warrants. He also argued in the alternative that officers unlawfully extended the scope of the traffic stop under *Rodriguez v. United States*, 575 U.S. 348 (2015), when they deployed the drug detection dog before completing any traffic-related tasks.

The Court of Appeals Opinion

In an unpublished opinion, the Ninth Circuit Court of Appeals affirmed the conviction, finding the district court properly denied the motions to suppress. (App. C at C-1). Without overturning the district court's finding that the GPS warrant was not supported by probable cause, the court held that because the traffic stop was lawful under *Whren v. United States*, *supra*, the officers' "dual motive" for the

stop did not render it unlawful. (App. C at C-1). It also held that the officers did not unlawfully extend the stop to facilitate the dog sniff. (*Id.*).

Petitioner then moved for rehearing, arguing that the panel employed an incorrect legal framework when it failed to assess whether the traffic stop—which concededly did not violate the Fourth Amendment under *Whren*—nonetheless was invalid because it was not attenuated from, or independent of, the tainted GPS warrant. (App. B at B-1-14). Indeed, he noted, the independent source and attenuation doctrines come into play only when unlawful police conduct (here, obtaining a warrant without establishing probable cause) is followed by lawful police conduct (here, the traffic stop that was supported by probable cause that the driver was speeding). (App. B at B-14). On July 20, 2026, the Court of Appeals denied the petition for rehearing and rehearing *en banc*. (App. A at A-1).

REASONS FOR GRANTING THE PETITION

The Ninth Circuit’s opinion employs an analysis that is in conflict with that of other circuits. A fair reading of the Ninth Circuit’s opinion is that it holds that if a police officer has probable cause to conduct a traffic stop, it is irrelevant whether the officer came upon the motorist in the first instance because of unlawfully obtained location data:

Hawkins’s challenge fails because law enforcement had a lawful basis to stop and search the vehicle independent of the earlier warrants. Officers observed the vehicle speeding, which provided probable cause to conduct a traffic stop. *See Whren v. United States*, 517 U.S. 806, 810 (1996). That officers may have had a “dual motive” for the stop is irrelevant because there is no dispute that a reasonable officer would stop a car for speeding under the circumstances.

Hawkins, 2026 WL 1494059 at *1; App. C at C-1. The court further concluded that because there was probable cause to believe the driver was speeding and the officers did not unlawfully extend the stop by conducting a dog sniff, “we need not address whether the initial search warrants lacked probable cause or whether the good-faith exception to the warrant requirement would apply.” *Id.* The only fair reading of the court’s holding is that it believed that a traffic stop that is lawful under *Whren* renders any previous unlawful action by police irrelevant.

Even when Petitioner pointed out the omissions in the court’s analysis via a petition for rehearing (*see* App. B), the court summarily denied the petition. (App. A at A-1). This means that the Ninth Circuit’s holding in *Hawkins* conflicts with that of the Fourth and Sixth Circuits. Indeed, in *United States v. Terry*, 909 F.3d 716 (4th Cir. 2018), the Fourth Circuit explicitly rejected the government’s argument, which was identical to the *Hawkins* court’s reasoning. In *Terry*, police surreptitiously placed a GPS tracking device on the defendant’s car without first seeking a warrant. *Id.* at 719. Just as in Petitioner’s case, the officers then used the GPS data to locate the defendant, wait for him to accelerate over the speed limit, and then pull him over and search him for drugs. In rejecting the government’s argument that the traffic stop cured the prior police misconduct, the court explained:

contrary to the government’s position, our decision in [*United States v. Sprinkle*, 106 F.3d 613 (4th Cir. 1997)] did not and could not establish a bright-line rule that *any* illegal conduct by a defendant will inevitably attenuate the taint of a Fourth Amendment violation [A] proper attenuation analysis requires a case-specific balancing of the circumstances

in light of the objectives of the exclusionary rule. We therefore reject the Government's attempt to ossify *Sprinkle* into an inflexible maxim.

Id. at 723. Lower courts have similarly held that law enforcement may not use unlawfully obtained GPS tracking data to locate a suspect and then lie in wait for them to commit a traffic infraction, unless the court finds the traffic stop sufficiently attenuated from the GPS data. *See, e.g., United States v. Lee*, 862 F. Supp. 2d 560 (E.D. Ky. 2012) (agent's use of illegally placed GPS tracking device tainted subsequent vehicle search, where task force officer used GPS data to locate defendant and employed state trooper to conduct traffic stop following seatbelt violation); *United States v. Powell*, 943 F. Supp. 2d 759 (E.D. Mich. 2013) (law enforcement's use of warrantless GPS device rendered evidence recovered during otherwise lawful traffic stop inadmissible absent a finding that the stop was sufficiently attenuated from the initial misconduct).

The Sixth Circuit applied similar logic in holding that where a warrant is not supported by probable cause, evidence obtained via the warrant—or even via the threatened use of the warrant—may not be exploited to support a second warrant, absent a finding of attenuation. *United States v. Waide*, 60 F.4th 327, 340 (6th Cir. 2023). In *Waide*, officers investigating a fire in a shed adjacent to an apartment complex learned that the defendant owned a security camera that might contain evidence relating to the fire. *Id.* at 332-33. After the defendant refused to allow police access to DVR recordings from his security camera, they sought a warrant to search his home. *Id.* When confronted with the warrant, the defendant admitted to having a small amount of marijuana in his home, which led to his arrest. *Id.* at 333.

A search of his home revealed larger quantities of drugs and a firearm, which the defendant moved to suppress. *Id.* at 334.

The Sixth Circuit reversed the denial of the defendant's motion to suppress, finding, first, that the original warrant was not supported by probable cause that there would be evidence of a crime connected to the shed fire. *Id.* at 335. Second, it found that even though the defendant admitted to having marijuana in his home, giving rise to probable cause that he committed a crime, the subsequent search of his apartment was not sufficiently attenuated from the threat to execute the invalid warrant. *Id.* at 339-40.

The same analysis holds in other contexts. Courts have consistently held that where evidence is obtained through the exploitation of illegally obtained evidence, the mere fact that police develop reasonable suspicion or probable cause for a new offense is not sufficient to cleanse the taint of the original illegal action, absent a finding of attenuation, independent source, or inevitable discovery. *See, e.g., United States v. Pennington*, ___ F.4th ___, 2026 WL 2620435 at *7-8 (7th Cir. 2026) (conducting attenuation analysis where court found first of two traffic stops was unlawfully prolonged, but finding second traffic stop, more than one hour later, was sufficiently attenuated from first stop to render it not fruit of the poisonous tree); *United States v. Mendez*, 885 F.3d 899 (5th Cir. 2018) (conducting attenuation analysis where police conducted stop in violation of *Bailey v. United States*, 568 U.S. 186 (2013) and subsequently obtained evidence from defendant's car and home, later obtaining a post-arrest statement in which the defendant admitted to

possessing firearms and directed police to the location of one of them). Indeed, the Ninth Circuit itself has held, in an older case, that where evidence is discovered through lawful police conduct that is itself preceded by unlawful police conduct, the court must determine whether the lawful police conduct was “genuinely independent” of the unlawfully obtained evidence. *United States v. Johns*, 891 F.2d 243, 245 (9th Cir. 1989).

In this case, the Ninth Circuit skipped the analysis altogether, holding that the mere fact that Petitioner’s companion was lawfully stopped for speeding dispensed with the need for conducting any analysis of whether the original GPS warrant was supported by probable cause or whether any exception to the fruit of the poisonous tree doctrine applied. In so holding, it confused *Whren*’s broad holding—that an officer need only have probable cause to believe a traffic violation has occurred in order to lawfully conduct a stop, regardless of motive—with the attenuation doctrine, which bars the use of evidence derived from unlawful police conduct unless subsequent lawful police conduct was sufficiently attenuated from the original unlawful conduct. This is in direct conflict with cases from the Fourth, Fifth, Sixth and Seventh Circuits, and contravenes this Court’s directive in *Wong Sun*, *supra*, that evidence derived from unlawful police conduct is inadmissible unless a court can articulate an exception to the general rule.

CONCLUSION

For the foregoing reasons, Petitioner Kendle Rashen Hawkins respectfully requests that his petition for a writ of certiorari be granted.

DATED this 19th day of October, 2026.

Respectfully submitted,

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A handwritten signature in black ink that reads "Lynn C. Hartfield". The signature is written in a cursive, flowing style.

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