CAPITAL CASE

No. _____

In the Supreme Court of the United States

October Term, 2024

GLENN TAYLOR HELZER,

Petitioner,

v.

PEOPLE OF THE STATE OF CALIFORNIA,

Respondent.

PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF CALIFORNIA

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QUESTION PRESENTED

Does the plain view doctrine apply where police enter and seize a home under a warrant to search for evidence of specified crimes, and forego getting a new warrant before proceeding to search for evidence of other crimes that police discover while they are occupying the home?

LIST OF PARTIES

The parties to the proceeding in the Superior Court were defendant-appellant Glenn Taylor Helzer (petitioner in this Court), co-defendants Justin Alan Helzer and Dawn Godman, and plaintiff-respondent People of the State of California. Petitioner alone completed an appeal to the California Supreme Court.

STATEMENT OF RELATED PROCEEDINGS

1. State Trial Court: People v. Glenn Taylor Helzer, Justin Alan Helzer and Dawn Godman,. Superior Court Of California, Contra Costa County No. 02057–6, judgment entered March 11, 2005.
2. State Court of Appeal Pretrial Writ Petitions: Glenn Taylor Helzer, et.al., v. Superior Court Nos. A105741 (dismissed March 11, 2004), A103679 (denied September 4, 2003) and A100518 (denied November 12, 2002).
3. Direct Appeal Decision: People v. Glen Taylor Helzer, S132256, filed January 24, 2024.
4. State Supreme Court Habeas Petition: In re Glen Taylor Helzer, No. S283398, filed January 12, 2024, pending.

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Petition

Petitioner **GLENN TAYLOR HELZER** respectfully prays that a Writ of Certiorari issue to review the judgment and decision of the Supreme Court of the State of California entered on January 22, 2024.

OPINIONS BELOW

The California Supreme Court's opinion affirming the death judgment is reported as *People v. Helzer*, 15 Cal.5th 622 (2024).

JURISDICTION

The Supreme Court of California issued its opinion in this case on January 22, 2024. A copy of that opinion is attached as Appendix A. This Court has jurisdiction pursuant to 28 U.S.C. section 1257(3).

CONSTITUTIONAL PROVISIONS INVOLVED

Fourth Amendment

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.

STATUTORY PROVISIONS INVOLVED

28 U.S.C. section 1257(3).

STATEMENT OF THE CASE

1. Trial Court Proceedings

Petitioner, his brother Justin Helzer, and their friend Dawn Godman were charged as codefendants in the kidnaping and murders of Ivan and Annette Stineman and the murders of Selina Bishop, Bishop's mother, Jennifer Villarin, and Villarin's friend James Gamble.

On behalf of all three defendants, Godman moved to suppress all of the evidence obtained by police executing serial search warrants at the home the defendants shared because the searching officers searched for and seized things that were not the stated objects of their warrants in what amounted to a "general search" that the Fourth Amendment was written to prohibit. The motion was denied.

Godman subsequently pleaded guilty to 18 counts in exchange for her agreement to testify against petitioner and his brother. After the trial court denied the brothers' motions for separate trials, petitioner pleaded guilty to all charges and received a penalty phase trial. Both brothers were sentenced to death. Justin Helzer died while his case was on appeal.

2. Petitioner's Appeal

Petitioner argued that police disregarded the limits of their warrants as to purpose and failed to show justification for over-seizures at the hearing on the motion to suppress. The state court rejected this claim after averting to the plain view doctrine:

> There is substantial evidence supporting the trial court's determination that seizures of items not specifically described in the warrant were nonetheless appropriate under the plain view doctrine, and did not reflect a general, indiscriminate search of the premises. Detective Nash testified that seizures were made in light of "[t]he entire picture of what [they] were getting as [they] were getting it and whether it was related to this series of murders and financial stuff." He further explained: "So we wouldn't just arbitrarily say yeah, that's related. We would actually have information at some point in there that we felt that it was related

> to the series of crimes." And Detective Nash responded in the affirmative when asked whether he had made "every effort to try to seize only those items that were either specifically listed in the search warrant or items which [he] believed there was probable cause to believe constituted the fruits [or] instrumentality of the crime." Similarly, Detective Chiabotti testified that the evidence that was seized at the premises "related to instrumentality of the crimes [they] were investigating, evidence that would tend to show who committed the crimes, how the crimes were committed, evidence which went to state of mind . , planning, preparation."

(*People v. Helzer,* 15 Cal.5th 622, 651.)

The unstated problem with the state court's conclusion is that the "crimes" referred to by the officers were the murders of the Stinemans and Selina Bishop and the mutilation of their remains, crimes that were not disclosed to the magistrates issuing the warrants, crimes that became known to the officers only after the warranted searches were underway. It was those murders and mutilations at petitioner's residence that explained the eight-day occupation and ransacking of the home for all writings and artifacts bearing on the mentality of the residents. The question is whether police were required to get a warrant that contemplated what the officers were looking for and why, or were they allowed to conduct a general search in reliance on the plain view doctrine?

Here, the place to be searched was the defendant's home, and the specified items in the only warrant actually read by lead Detective Nash were the gun used in a double murder, evidence of occupancy and anything related to one missing person, the daughter of one of the victims of a shooting in another county.

There was no exigency compelling continuation of the search before getting a new warrant, and no new warrant was sought after police learned that the missing persons had been killed and their remains mutilated in the home under search. The place was seized and searched for eight days.

REASONS FOR GRANTING THE WRIT

Lower state and federal courts need guidance on the application of the plain view doctrine when a search goes beyond the objects of the search warrant as to purpose and intensity, but not location. Petitioner urges this Court to hold that a search warrant for a home is a license, like the implicit license to approach a front door of a home, that is limited not only to a particular area, but to a particular purpose. *(Florida v. Jardines*, 569 U.S. 1, 11–12 (2013). When the purpose and intensity of the intrusion far exceed that necessary to locate the objects of the warrant, blanket suppression may be appropriate, and is appropriate here.

The California Supreme Court opinion's reliance on the plain view doctrine here will lead to more general searches – the evil that the Fourth Amendment was enacted to prevent – unless certiorari is granted. The officers' testimony, as quoted in the decision, does not show that they were pursuing the objects of the warrant when they came to view all of what they opened, read, and seized. On the contrary, it shows that they were pursuing mens rea and bad character evidence to use in a death penalty trial for murders and mutilations not disclosed to any magistrate in issuing any warrant for the home.

The court's extension of the plain view doctrine to cover discoveries made while searching for purposes other than the object of the warrants is at odds with *Jardines* v. *Florida*, and with many lower federal court decisions respecting warrants to search computers and phones that produce evidence of new crimes. Where, as here, there is no exigency, the Fourth Amendment demands that the police obtain a new warrant describing the intended objects of the search. Lower federal courts acknowledge that obligation, at least in the context of digital data searches.[1] But the Califor-

[1] See *United States Mann*, 592 F.3d 779, 786 (7th Cir. 2010) (finding "troubling" detective's "failure to stop his search and request a separate warrant for child pornography" where, during search seeking to uncover evidence of voyeurism under lawful warrant, detective discovered child pornography). Government agents rou-

nia Supreme Court did not do so in petitioner's case. It failed to condemn the ransacking of petitioner's home and review of all of his papers and artifacts – things clearly not within the scope of any warrant – and thus set a bad precedent.

This Court can negate that bad precedent by clarifying a simple point for all state and lower federal courts: a search warrant is a license to search for specified purposes. Hence, any evidence that came into plain view only when searching for other purposes must be suppressed. And where, as here, it is not possible to identify after the fact the discrete items of evidence that would have been discovered had the agents focused exclusively on the objects of the warrants, blanket suppression is necessary and appropriate. (*United States v. Rettig*, 589 F.2d 418, 423 (1978).

Petitioner's suggested clarification of the plain view doctrine as applied to searches for evidence outside the scope of the warrant integrates the rule announced in *Jar-*

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tinely do just that. See, e.g., *United States v. Williams*, 592 F.3d 511, 516 n.2 (4th Cir. 2010) (obtaining a second search warrant specifically to authorize a search for child pornography where FBI agent, conducting search under state warrant for evidence related to Virginia crimes of threatening bodily harm and harassment by a computer, observed evidence of child pornography); *United States v. Giberson*, 527 F.3d 882, 890 (9th Cir. 2008) (government only searched computer for pornographic files after obtaining third search warrant allowing it to search for child pornography); *Triplett v. United States*, No. 1:09cr154-MPM, 2014 U.S. Dist. LEXIS 103917, 2014 WL 3756353, *1 (N.D. Mass. July 30, 2014) ("[A] search warrant was issued for items at the Morris-Triplett residence that could lead to information about Kaila's disappearance. . . . Several computers were seized from the home, and a forensic examination of the computers was conducted. After a forensic examination revealed images of what the investigator believed to be child pornography, the investigator ceased his examination and called the Sheriff's Department to advise them to apply for another search warrant. A second search warrant was obtained, and over 4,000 images of child pornography were located on the computers."); *United States v. Carter*, Criminal No. 09-161, 2012 U.S. Dist. LEXIS 23696, 2012 WL 604162, *4-5 (W.D. Pa. Feb. 24, 2012) (computer search for evidence of counterfeiting halted to obtain second search warrant to look for child pornography when evidence of child pornography found); *United States v. Gray*, 78 F.Supp.2d 524, 527–28 (E.D. Va. 1999) (upon discovering child pornography while conducting computer search for evidence of unauthorized computer intrusions as authorized by search warrant, agent stops search and obtains a second warrant authorizing search for child pornography).

dines with well settled principles respecting the execution of search warrants. A search pursuant to warrant must be directed "`toward the objects specified in the warrant or for other means and instrumentalities by which the crime charged had been committed.' [Citation.]" (*United States v. Rettig*, 589 F.2d 418, 423 cf. *Horton v. California* (1990) 496 US 128, 141 ["if the three rings and other items named in the warrant had been found at the outset -- or petitioner had them in his possession and had responded to the warrant by producing them immediately -- no search for weapons could have taken place."]; *Creamer v. Porter* (5th Cir. 1985) 754 F.2d 1311, 1319 ["[a] reasonable officer would be aware . . . [of] the rule confining the search to items particularly described in the warrant"].)

Notably, petitioner's suggestion does not seek to bar use of evidence of new crimes discovered in the search of seized electronic devices discovered while pursuing the objects of the warrant. See Orin S. Kerr, *Executing Warrants for Digital Evidence: The Case for Use Restrictions on Nonresponsive Data*, 48 Tex. Tech L. Rev. 1, 2–5 (2015). Petitioner's approach allows states to use evidence of new crimes discovered when searching under a warrant for other evidence so long as police seek and obtain a new warrant.

Recent federal court and other state court decisions addressing searches for evidence of crimes not disclosed to the magistrate support petitioner's modest approach. They focus on the apparent purpose of the searches that led to the discovery of the matter.

> Under the Fourth Amendment, when law enforcement personnel obtain a warrant to search for a specific crime but later, for whatever reason, seek to broaden their scope to search for evidence of another crime, a new warrant is required. [Citations.]
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> And, when they fail to do so, evidence outside the scope of the original warrant is subject to exclusion. See, e.g., *United States v. Carey*, 172

> F.3d 1268, 1276 (9th Cir. 1998) (suppressing child pornography evidence where police, conducting search under warrant for drug offenses, continued to search for child pornography without obtaining warrant); *United States v. Hulscher*, 4:16-CR-40070–01-KES, 2017 U.S. Dist. LEXIS 22874, 2017 WL 657436, *2 (D.S.D. Feb. 17, 2017) (suppressing evidence from second search of Iphone for evidence to support federal firearms charges where search warrant allowing seizure and search of phone was to investigate forgery, counterfeiting, and identify theft offenses because agent "should have applied for and obtained a second warrant [that] would have authorized him to search Mr. Hulscher's cell phone data for evidence of firearms offenses"); *United States v. Schlingloff*, 901 F. Supp. 2d 1101, 1106 (C.D. Ill. 2012) (concluding scope of search warrant was exceeded and suppressing evidence of child pornography where law enforcement agent was searching computer for evidence of passport fraud and identify theft but, upon covering evidence of child pornography, failed to seek a second warrant). (*United States v. Nasher-Alneam* (S.D.W.Va. 2019) 399 F. Supp. 3d 579, 592–594.)

At least one state Supreme Court has focused on the purpose of the search in excluding evidence that the officers viewed while executing a warrant for a different crime. In *People v. Hughes* (Mich. Supr. 2020) 506 Mich. 512, 517, the state Supreme Court suppressed armed robbery evidence required where "the officer's review of defendant's cell-phone data for incriminating evidence relating to an armed robbery was not reasonably directed at obtaining evidence regarding drug trafficking--the criminal activity alleged in the warrant--and therefore the search for that evidence was outside the purview of the warrant and thus violative of the Fourth Amendment."

It bears emphasis here that searches of a home during an eight-day seizure in which officers seek to uncover all evidence of the residents mentality are not readily distinguishable from the search of electronic information seized from a hard drive. Both involve looking into every possible hiding place for the desired data. Both give police access to personal writings that reveal the inner life and private affairs of the suspect. In both contexts, courts can and should determine whether the search process was *reasonably directed at uncovering the evidence specified in the search warrant. See* United States v. Rettig, 589 F.2d 418, 423 (9th Cir. 1978) [the "search

must be one directed in good faith toward the objects specified in the warrant or for other means and instrumentalities by which the crime charged had been committed."].)

In both scenarios, it is "unrealistic to expect a warrant prospectively [to] restrict the scope of a search" by precise location. (See *United States v. Loera*, 923 F.3d 907, 917 (10th Cir. 2019). Consequently, courts must make an ex post examination of the purpose of the searches actually conducted to see if they were all directed to the objects of the warrant. (*Id.*)

Also, the *intensity* of the search, rather than its precise location, determines its reasonableness, whether the location is a cell phone or a person's home. To quote:

> Imagine a warrant authorizes police officers to search a "residence" for evidence of "firearms and ammunition." Under that warrant, it would be reasonable for a police officer to search the medicine cabinet in the bathroom for a minute or two to see if a small gun or ammunition is hidden there, however, it would be unreasonable for the officer to spend two hours reading the labels on each bottle of medicine in the cabinet. On the other hand, if the warrant had authorized the officer to search the residence for evidence of "illegal drug trafficking and manufacture," an intensive search of the medicine cabinet would be reasonable. In both cases, the medicine cabinet is fair game to search, *but the intensity level of the permitted search differs depending on the evidence to be seized*. The same is true for electronic searches. (*United States v. Loera*, 923 F.3d 907, 920–21 (10th Cir. 2019)

The intensity of the search in this case reached all writings, artifacts, even rolled-up posters in the garage, long after the bodies of the missing persons were found, because the crimes not disclosed in applying for warrants generated special interest in the mentality of the residents, There was no exigency; the home had been seized and would continue to be seized while officers completed their searches. Where, as here, there is no exigency, the Fourth Amendment demands that the police obtain a new

warrant describing the intended objects of the search. Lower federal courts acknowledge that obligation, at least in the context of digital data searches. But the California Supreme Court did not do so in petitioner's case.

Finally, petitioner urges this Court to require blanket suppression of evidence where, as here, it is impracticable to determine which of the items of evidence police seized were discovered while searching for the stated objects of their warrant as opposed to the undisclosed crimes. The detectives conflated the two, as shown in their testimony. The purpose of the searches conducted in the home was broadly explained by the officers (as noted in the state court opinion) to include information and evidence not contemplated by their warrants, but useful in showing decadent lifestyle, belief in witchcraft and other aggravating evidence connected to the murders that were not known and therefore not disclosed to any magistrate. "Under the circumstances, it is not possible for the court to identify after the fact the discrete items of evidence which would have been discovered had the agents kept their search within the bounds permitted by the warrant; and therefore all evidence seized during the search must be suppressed.

United States v. Rettig, 589 F.2d at 423.

CONCLUSION

The petition for writ of certiorari should be granted.

Respectfully submitted,

Dated: April 18, 2024

By: /s/ Jeanne Keevan-Lynch

Attorney for Petitioner
Glen Taylor Helzer

Appendix “A”