

**In Re ROBERT NORMAN SMITHBACK**

**PETITION FOR REHEARING  
Rule 44.2**

TO THE HONORABLE JUSTICES OF THE SUPREME COURT:

NOW COMES, Petitioner Robert Norman Smithback (pro se) and moves this Court to hear his Motion For Rehearing under Rule 44.2 of the Rules of the United States Supreme Court. In support of this Motion, Petitioner shows the following:

**I -- Background.**

Petitioner is currently unconstitutionally incarcerated in the Texas Department of Criminal Justice - Correctional Institutions Division. He is serving a forty-five year prison sentence for the crime of Aggravated Sexual Assault of a Child under the age of 14, in violation of this Court's Carmell v. Texas, 529 U.S. 513 (2000) decision, and the Due Process Clause of the Fourteenth Amendment.

Petitioner was prosecuted under Article 38.07 of the Texas Code of Criminal Procedure by the State of Texas after this Court's Carmell decision. Furthermore, when the State could not bring Petitioner to trial, the State decided to continue to violate Petitioner's rights by deliberately denying him his right to a trial by jury. The State knows that Petitioner is actually innocent, but refuses to acknowledge it.

Petitioner has filed numerous appeals before the Texas Court of Criminal Appeals, the United States District Court for the Northern District of Texas-Dallas Division, and the United States Court of Appeals for the Fifth Circuit. All of those courts have ignored this Court's decisions in one way or another. See Notice of Writ justification. Petitioner has exhausted, to the best of his knowledge, all available remedies. *Id.*

Petitioner now seeks redress in this Court under the Petition for a Writ of Habeas Corpus.

**II - Substantial Grounds Merit Rehearing.**

Petitioner is actually innocent of the crime he has been convicted of. In this case, he has been convicted of a crime that never happened; a crime for which the State cannot prove happened; a crime for which Petitioner was denied his Due Process rights, including the right to a trial by jury. He has exhausted all available judicial remedies in both State and Federal court. The only available remedy remaining is this Court. Petitioner has applied for habeas relief before this Court before only to just be denied without reason.

"...No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, 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[," U.S. Const. Amend. XIV, § 3 with emphasis added.]

The State of Texas is depriving Petitioner's liberty without due process of law. Under Article III of the United States Constitution, this Court possesses

jurisdiction over this case. Even if it is to deny for established reasons the relief requested. Petitioner only seeks a rehearing on the merits of the case. Petitioner has the ~~way~~ (if granted).

Petitioner has no way of knowing why this Court keeps denying him relief. He will refile for habeas relief unless this Court explains (1. what he is doing wrong, e.g., what procedures he has failed to follow; (2. what rules, laws, or decisions apply or do not apply to this case; or (3. any other reason justifying denial that he is unaware of. Petitioner seeks a ruling on the merits of this case. That is all.

Refusal to do so will allow Texas, or any other state for that matter, to deliberately deprive their citizens without due process of law without fear of judicial interference. For this reason, Petitioner respectfully asks this Court to grant a rehearing, and make a ruling on the merits in the interest of justice.

#### PRAYER

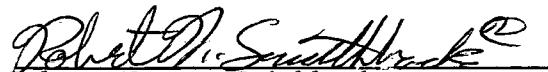
**WHEREFORE, PREMISES CONSIDERED**, Petitioner Robert Norman Smithback respectfully prays to this Court that it grants this Motion for Rehearing, and any other relief it deems proper and just.

#### CERTIFICATION OF A PARTY UNREPRESENTED BY COUNSEL

I, Petitioner Robert Norman Smithback (pro se) do hereby certify that this Petition for Rehearing is restricted to the grounds specified in Rule 44.2 of the Rules of the United States Supreme Court, and that it is presented in good faith and not for delay.

Executed on this, the 9th day of October, 2018 A.D.

Respectfully Submitted,

  
Robert Norman Smithback  
c/o 3060 Farmers Market 3514  
Beaumont, Texas u.S.A.  
Petitioner (pro se), Sui Juris