No. 18-588

IN THE SUPREME COURT OF THE UNITED STATES

JARED MORRISON (PETITIONOR)

V.

LORIE DAVIS (RESPONDENT)

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

PETITION FOR REHEARING

Jared Morrison
2604 W. County Rd 115
Midland, TX 79706

TABLE OF AUTHORITES

CASES:

LAWS:

PETITION FOR REHEARING

Comes now, Jared Morrison, Petitioner in the above cause and begs this Court to reconsider its decision to deny my writ of certiorari, and grant this motion for rehearing pursuant to Rule 44, then thereafter, do what is right and just, and grant my writ of certiorari which proves (as this Court proved in its holding in Jimenez v. Quarterman 555 U.S. 113, 129 S.Ct 681 (2009), and Gonzalez v. Thaler 132 S.Ct 641 (2012)) that the Fifth Circuit is wrongfully applying the 28 USC § 2244 (d)(1)(A) 1-year limitation period to many prisoners' first opportunity to raise their credible constitutional claims through 28 USC § 2254 Writ of Habeas Corpus, by time barring said claims from before the prisoner had the opportunity to seek the conclusion of direct review or the expiration of time to seek direct review.

As proved in Jimenez, and other cases that deal with how to properly apply the 2244(d)(1)(A) limitation period, the Fifth Circuit has a history of pulling the trigger too quickly on the 2244(d)(1)(A) 1-year limitation period's trigger date (see Tharp v. Thaler 628 F.3d 719 (2010), Caldwell V. Dretke 429 F.3d 521 (2005), and Morrison v. Davis No. 18-5888), resulting in the Petitioners' constitutional claims being time barred years before the Petitioner's deferred adjudication probation was revoked and they were convicted, sentenced, imprisoned, and had the opportunity to seek the finality of direct review. According to the District Court and the Fifth Circuit, my grounds 2,3,4,5,6,7, and 12 of my 2254 Petition were time barred on June 6, 2005, six years before I was convicted, sentenced, imprisoned, and had the opportunity to seek direct review. In April 2011, my deferred probation was revoked, and I was unconstitutionally imprisoned as grounds 2-7, and 12 prove.

I have proven in my writ of certiorari that the Fifth Circuit has been misapplying the 1-year limitation period's trigger date to 30-days after a person's deferred adjudication probation order that "places them on" deferred adjudication probation without convicting them, sentencing them, holding them in jail or prison, and without giving them a chance to seek direct review. By this Court denying my writ of certiorari, it is continuing to allow the Fifth Circuit to wrongfully set the 2244(d)(1)(A) trigger

date to when a person is on deferred adjudication probation, at a time when the person cannot raise his claims through a § 2254 Petition to avoid being time barred because he is not convicted, sentenced, imprisoned, and because Texas Rules of Appellate Procedure ("TRAP") 25.2 says anyone who pleads guilty to accept a deferred adjudication probation cannot seek direct review. Therefore, I will prove through this Court's holdings in Jimenez and Gonzalez supra, that the 2254(d)(1)(A) 1-year limitation period cannot be triggered 30 days after a deferred adjudication probation order, since the probationer has not had the opportunity to seek the conclusion of direct review, nor did he ever have an expiration date to seek, since there was not even a start date. See 2244(d)(1)(A)'a plain language, and TRAP 25.2. Also see Code of Criminal Procedure Article 44.02.

In my § 2254 Petition and brief, and the Statements of the case portion of my writ of certiorari, I raised six credible constitutional grounds in my grounds 2, 3, 4, 5, 6, and 7 that are completely supported by this Court's precedents and proves that the erroneous and unconstitutional strict liability interpretation of the Texas statutory rape statute has not only violated, and will continue to violate my federal Constitutional Rights, but has and will continue to also violate the federal Constitutional Rights of many other adults in Texas. None of my credible constitutional grounds, which are supported by federal law as determined by the Supreme Court have been addressed by any court.

During my state writ of habeas corpus, the Habeas Judge, in order to recommend denying my claims, merely made a conclusory, one sentence statement that said the grounds as written are without merit, but for some reason, could not say how or why they were without merit. The Texas Court of Criminal Appeals signed off on the Habeas Judge's conclusory statement and denied the writ without an opinion, based on the habeas court's conclusory findings regarding grounds 2-7, and 14.

Because of the state court's unreasonable determination of my constitutional grounds, I raised the same six claims in my § 2254 petition. In order to avoid answering my credible claims, in his report and recommendation, the magistrate judge, Judge Counts, said grounds 2-7, and my ineffective assistance of counsel claim against trial counsel (ground 12), were time barred by the 2244(d)(1)(A) limitation period

since I did not raise the claims through a 2254 petition between the 2244(d)(1)(A) trigger date of June 5, 2004 and its expiration date of June 5, 2005. Judge Counts got that rationale from Tharp v. Thaler and Caldwell v. Dretke supra, where the Fifth Circuit erroneously used TRAP 26.2 to say a deferred adjudication probationer has 30 days to appeal, therefore, setting the trigger date of 2244(d)(1)(A) to 30 days after the deferred adjudication probation order. That was an error because TRAP 25.2 disallows deferred adjudication probationers to appeal.

Tharp and Caldwell are what I am saying this Court needs to look at, so to overturn the Fifth Circuit's unconstitutional and unreasonable application of the 1-year limitation period's trigger date, as held in those cases, which sets the 2244(d)(1)(A) trigger date to a time well before a prisoner who files a 2254 petition was convicted, sentenced, imprisoned, or had the opportunity to file a direct appeal, which finalized their conviction. I cannot understand how the Fifth Circuit has been able to continue to get away with setting the 1-year limitation period trigger date to a time when a person was on deferred adjudication probation, long before they could seek direct review to finalize a conviction they did not have. That goes against the plain language of 2244(d)(1)(A), see Jimenez v. Quarterman, and Gonzalez v. Thaler supra.

My case proves that the Fifth Circuit and the district court's decision, relying on Tharp and Caldwell to time bar my claims from before I was convicted, sentenced, imprisoned, or had the opportunity to seek the finality of direct review, or seek the expiration of time to such review pursuant to 2244(d)(1)(A) conflicts with this Court's holding in Jimenez and Gonzalez. It is also important to note that it would have been impossible for me to properly file the time barred claims from June 5, 2004 to June 5, 2005 in a 2254 petition, as the district court and Fifth Circuit are suggesting, since the federal courts would have lacked jurisdiction to hear the claims through a 2254 petition when at that time I had no conviction, sentence, or was held in a jail or prison, nor had I had the opportunity to seek direct review (TRAP 25.2) for the purposes of 2244(d)(1)(A) or 2254(b)(1)(A) during that time.

After proving in my COA and its brief that the district court's decision to deny relief of my 2254 petition was debatable among jurist of reason and adequate to deserve encouragement to proceed further,

Fifth Circuit Judge, Judge W. Eugene Davis erred in his opinion to deny my COA by completely overlooking the points of law and fact that I cited to that did satisfy a grant of a COA. Judge Davis denied my COA by saying, "[Morrison] has failed to make a requisite showing as to all his claims." Judge Davis listed the requisite standards for a COA to be granted, but he failed to mention how I failed to satisfy them. His one sentence conclusory denial overlooked and did not address the many compelling cases I cited to which proves jurists of reason, including many jurists from the Supreme Court, would find it debatable whether the district court's assessment of my constitutional claims regarding grounds 1, 8, 11, 13, and 14 were debatable or wrong. Nor did he bother to look at, or even address the compelling cases and arguments I raised which showed jurists of reason, including Jurists from this Court, would find it debatable whether the district court was correct in its procedural ruling that denied relief of grounds 2, 3, 4, 5, 6, 7 and 12 based on those grounds being erroneously time barred by the 1-year limitation time period expiring on June 5, 2005 while I was on deferred adjudication probation and could not file for 2254 relief without having a conviction, sentence, being held in a jail, or prison, or having the opportunity to seek direct review. I also proved in my COA that Judge Counts, in order to deny my McQuiggin v Perkins 133 S.Ct 1924 (2013) actual innocence gateway past the alleged time bar, had to make up an erroneous, junk argument that made no sense.

Tharp and Caldwell conflict with this Court's holdings in regard to whether a person who is on deferred probation can be "in custody" as required by 2254(a) and 2244(d)(1) to file for 2254 relief when they have not yet been convicted, sentenced, or imprisoned, as was my status while on deferred probation from June 5, 2004 to June 5, 2005, which was the time period the Fifth Circuit said I should have filed my claims in the federal court to avoid being time barred by 2244(d)(1)(A). The Supreme Court held in Maleng v. Cook 109 S.Ct 1923 (1989) what constitutes "in custody" for the purposes of filing a 2254 petition. This Court said, "that a habeas petitioner must be 'in custody' under the **conviction** or **sentence** under attack at the time his petition is filed." This definition shows that I could not be "in custody" to qualify for filing a 2254 petition from June 5, 2004 to June 5, 2005 since I had not been **convicted** or

sentenced at that time. Therefore, the decisions that the Fifth Circuit and the district courts have been using to time bar many petitioners' credible constitutional claims by setting the 2244(d)(1)(A) trigger date to before the were "in custody" and could not even file a 2254 petition or appeal their conviction or sentence must be addressed by this Court as discussed in question presented # 2 of my writ of certiorari.

I have also proved throughout my pleadings, that I cannot be time barred by Tharp and Caldwell because the terms "judgement of a state court" or "final judgement" in 2244(d)(1) and 2254 do not refer to an "order" that "places a person on" deferred adjudication probation when that person had no conviction, sentence, is held in a jail or prison, and has no legal means to seek direct review pursuant to TRAP 25.2 or other post-conviction remedies without a conviction in order to meet the finality requirements as mandated in 2244(d)(1)(A) and 2244(d)(2). This Court defined the term "final judgement" in Burton v. Stewart 127 S.Ct 793 (2007) as meaning the sentence. This Court's definition of "final judgement" proves that since I had no conviction or sentence in June 2004 to June 2005, I could not then have a "final judgement" to seek direct review for the purpose of: the plain language of 2244(d)(1)(A), Burton v. Stewart, and the plain language of the questions asked in the 2254 petition itself, which also indicate that "final judgement" means the conviction and sentence. See question #26 on the 2254 Petition where it says, "If your **judgement of conviction**, parole revocation, or disciplinary proceeding became final over one year ago, you must explain why the one-year statute of limitations contained in 28 USC § 2244(d) does not bar your petition." That question proves that a deferred adjudication probation "order" cannot be considered a "final judgement" of conviction because the deferred adjudication probation order is not an order that convicts or sentences anyone. A deferred adjudication probationer cannot answer question # 26 of the 2254 Petition because there was not a **judgement of conviction**, parole revocation, or a prisoner disciplinary proceeding.

Since I have filed my writ of certiorari, I have discovered other intervening circumstances of a substantial and controlling effect, or other substantial grounds not previously presented which support this petition for rehearing being granted pursuant to rule 44.2. I discovered that the rationale to time bar

prisoner's constitutional claims by setting the 2244(d)(1)(A) trigger date during the time a probationer was on deferred adjudication probation, and before they had a chance to conclude the finality of their conviction and sentence through direct appeal, is contrary to this Court's holdings in Jimenez v. Quarterman 129 S.Ct 681 (2009). Jimenez squarely supports my argument by its holding from the unanimous Court which held that the finality of 2244(d)(1)(A) means:

> "Direct review cannot conclude for purposes of 2244(d)(1)(A) until the **availability of direct appeal** to the state courts and to this Court **has been exhausted** until that time, the process of direct review has not come to an end and a presumption of finality and legality cannot yet have attached to the conviction and sentence." (Inside citations and quotations omitted). (Emphasis added).

My direct appeal was not **available** to me until April 29, 2011, after I was convicted and sentenced. My direct appeal did not conclude until January 21, 2014. This proves the June 5, 2004 trigger date set by the district court was not the "final judgement" as depicted in 2244(d)(1), and Jimenez since my direct appeal was not **exhausted** until January 21, 2014, when the 90 days to seek writ of certiorari from the October 23, 2013 refusal of my Petition for Discretionary Review expired. This Court went on to say that:

> "Under the statutory definition, therefore, once the Texas court of Criminal Appeals reopened direct review of Petitioner's conviction on September 25, 2002, Petitioner's conviction was no longer final for purposes of 2244(d)(1)(A). rather, the order granting an out-of-time appeal restored the pendency of the direct appeal and petitioner's conviction was again capable of modification through direct appeal to the state courts and to this Court on certiorari review. Therefore, it was not until January 6, 2004, when the time for seeking certiorari review in the Supreme Court expired, that Petitioner's conviction became "final" through the conclusion of direct review or the expiration of time for seeking such review under 2244(d)(1)(A)." (Inside citations and quotations omitted).

I was convicted on April 28, 2011 at the revocation of probation hearing and sentenced to 16 years prison, after which, I was then able to seek direct review. Did the granting of that opportunity to seek direct review in 2011 restore the pendency of the direct appeal that I did not have before in 2004 due to TRAP 25.2, and not having a conviction to appeal, making my conviction and sentence in 2011 capable

of being modified as was done in Jimenez? How could my conviction become final in 2004 to 2005 when I was not even convicted at that time? It was only after the revocation of my probation in 2011 that I had the opportunity to conclude the finality of direct appeal of my conviction to the state courts and to this Court. This Court further held in Jimenez:

> "It is the plain language of 2244(d)(1) that pinpoints the uniform date of finality set by congress. And that language points to the **conclusion** of direct appellate proceedings in the state court. The statute thus carries out AEDPA's goal of promoting comity, finality, and federalism by giving the state courts the first opportunity to review the claim and to correct any constitutional violation in the first instance. The statute 2244(d)(1)(A) requires a federal court, presented with an individual's **first petition for habeas relief**, to make use of the date on which the **entirety** of the state direct appellate review process was completed." (Inside citations and quotations omitted). (See Jimenez v. Quarterman 555 US 113, 119-121 for the above quotes). (Emphasis added).

The logic in Jimenez fits squarely with my situation since I could not seek conclusion of direct review until I was convicted on April 28, 2011. Then at that time I did seek direct review and concluded the **entirety** of my state direct appellate review when my Petition for Discretionary Review was refused on October 23, 2013. I had until January 21, 2014 to file for writ of certiorari, which is the date, according to this Court in Jimenez that triggered my 1-year limitation period, resulting in it expiring on January 21, 2015. I did not seek writ of certiorari to this Court at that time, but instead filed my state writ of habeas corpus on December 30, 2014. That filing date tolled the 2244(d)(1)(A) time limit until the writ was denied on April 29, 2015. I then timely filed my 2254 Petition on May 8, 2015, less than two weeks after the state writ was denied. By setting the 2244(d)(1)(A) trigger date to a time before I had a chance to complete direct review, the Fifth Circuit's holding in Tharp and Caldwell are basically doing the same thing to me, they did to Tharp, Caldwell, and many others who were on deferred adjudication probation as they tried to do to Jimenez. Thankfully, this Court fixed the errors for Jimenez. And in light of the similarities in Jimenez and in my case, I urge this Court to grant this Petition for Rehearing, so my constitutional violations can be fixed as well.

Also see Gonzalez v. Thaler 132 S.Ct 641, 653 (2012), where this Court has given the 2244(d)(1)(A) prongs a narrow reading that supports the fact that my 2244(d)(1)(A) trigger date could not be set on June 5, 2004, nor expire on June 5, 2005, since during that time I could not satisfy the two 2244(d)(1)(A) prongs. This Court said:

> "The text of § 2244(d)(1)(A), which marks finality as of 'the conclusion of direct review or the expiration of time for seeking such review' consists of two prongs. Each prong –the 'conclusion of direct review' and the 'expiration of time for seeking such review'– relates to a distinct category of petitioners. For petitioners who pursue direct review all the way to this Court, the judgement becomes final at the 'conclusion of direct review' –when this Court affirms a conviction on the merits or denies a petition for certiorari. For all other petitioners, the judgement becomes final at the 'expiration of the time for seeking such review'– when the time for pursuing direct review in this Court, or in state court expires."

June 5, 2004 is the date the Fifth Circuit is saying my expiration of time to seek direct review expired, and the date they set the 2244(d)(1)(A) limitation period. I according to TRAP 25.2 could not even file for direct appeal since I, like all other deferred adjudication probationers, pled guilty in order to accept the probation in lieu of going to jury trial to face the maximum prison sentence if found guilty. In Texas these days, it is very common –especially for people who are accused of committing a crime for the first time– for trial counsel to convince and coerce their clients to plead guilty and accept deferred adjudication probation in lieu of exercising their right to a jury trial. In my situation, this tactic was accomplished by my trial counsel telling me that if I went to jury trial, I would be found guilty and would not only go to prison for 20 years but would be beat up and raped everyday I was in prison. He told me that if I pled guilty and accepted the deferred adjudication probation plea bargain, that I would not go to prison and I would not even get a conviction if I successfully completed my nine-years of probation. At the time, I trusted my attorney's opinion, therefore in order to keep from getting beat up and raped everyday for 20 years, I judicially confessed to a crime I did not legally commit. As a condition of my "plea bargain," I not only had to waive my right to jury trial, I also had to waive my right to direct appeal pursuant to TRAP 25.2. Since deferred adjudication probationers in Texas must waive their right to direct

appeal, they surely do not fit under the "conclusion of direct review" prong. They also do not have a chance to seek direct review to have an expiration date to satisfy the "expiration of the time for seeking such review" prong. For something to expire, it must have a start. All deferred adjudication probationers' opportunity to seek direct review starts only after their probation is revoked and they are convicted and sentenced to prison. Therefore, 2244(d)(1)(A) cannot be applied to a deferred adjudication order, proving again that that order cannot be considered a "final judgement" for purposes of 2244(d)(1)(A). The Supreme Court also made the point in Gonzalez that, "AEDPA's federalism concerns and respect for state law procedures means that we should not read § 2244(d)(1)(A) to disregard state law. [] that is why a state court's reopening of direct review will **reset** the limitation period." I assert that the **reopening** of direct review in April 2011, **reset** the limitation period if it could be reasonably held to believe it was originally set in June 2004 based on the rationale in Tharp and Caldwell.

The Fifth Circuit has had a pattern of trying to prevent credible claims from being ruled on the merits by time barring those claims through 2244(d)(1)(A). They have done so as discussed in Jimenez, Tharp, Caldwell, my case, and others. This Court rightly took on the issues in Jimenez, which is very similar to my case in the sense that both Jimenez and I, did not have the opportunity to seek the entirety of direct review when the district court set the 2244(d)(1)(A) trigger date on our claims. Jimenez received an out of time appeal, which made his conviction capable of again being modified through direct appeal to the state courts and to this Court on certiorari review. In my case, my first chance at direct appeal was allowed only after my probation was revoked and I was convicted in April 2011, during which time, I was facing an entirely different class of problems than I was facing in June 2004 to June 2005. In 2011, I was unconstitutionally imprisoned and lost all aspects of my liberty, in addition, I discovered that, according to its plain language, the Texas statutory rape statute (22.011(a)(2)) is not actually a strict liability offense as I was told it was in 2004. It was not until after I was convicted of the statutory rape charge on April 28, 2011, that I had the opportunity to seek direct review to conclude the finality of my conviction. That direct review did not conclude until January 21, 2014. Therefore, I ask this question again: Does the

phrase "judgement of a state court" or "final judgement" in § 2254 or § 2244(d)(1)(A) refer to an order that places a person on deferred adjudication probation when that person has not been convicted, sentenced, imprisoned, and they were unable to seek the finality of direct review to meet the requirements of 2244(d)(1)(A)? I have proved that the answer to this question is no, and this Court, like it did for Jimenez, must grant my writ of certiorari to answer that question. If not, and this Court allows this kind of unjust act by the Fifth Circuit and district courts to continue, then it is very possible that thousands of deferred adjudication probation eligible defendant will be subjected to the Fifth Circuit created sandbagging scheme that will silence all deferred adjudication probationer's constitutional claims, even after their probation is revoked, and they are convicted and sent to prison. And it will not matter, much like in my situation, if that person later –after being imprisoned – discovers his guilty plea was coerced and he is actually innocent based on the plain language and legislative intent of the law. This is exactly what happened to me, Tharp, Caldwell, and many others who fall under the Fifth Circuit's overly rigid interpretation of 2244(d)(1)(A). As a result of their rigid interpretation and holdings, the Fifth Circuit has effectively suspended our right to writ of habeas corpus in the federal courts. No other circuit court treats deferred adjudication probation orders this way and it must be stopped by this Court before it spreads to other districts and circuits. Then millions of defendants who were duped into taking deferred adjudication probation over exercising their right to a jury trial, will lose their right to writ of habeas corpus after they are convicted and imprisoned. I beg the Supreme Court to look into this matter, so they too will not be complicit in this harm. If this Court can grant rehearing and eventually order the release of the enemy combatants from prison as done in Boumediene v. Bush, 553 U.S. 723 (2008), holding that the prisoners had a right to the writ of habeas corpus under the United States Constitution and that the Military Commissions Act of 2006 was an unconstitutional suspension of that right, surely this Court can do the same for a United States Navy veteran who has had his right to the writ of habeas corpus suspended since 2011. See questions presented # 4 and 5 in the writ of certiorari.

In my COA and writ of certiorari, I have proven I should have been able to bypass the alleged time bar through a McQuiggin v Perkins actual innocence claim, but the district courts in a desperate attempt to deny my actual innocence claim had to invent a way to say I failed to qualify for a McQuiggin v Perkins actual innocence claim. Out of pure biased hatefulness, Judge Counts (who I guess knew he could get away with such an unavailing argument out of nowhere) said since I did not present one of the three examples of reliable new evidence as listed in Schlup v. Delo 513 U.S. 298, 324 (1995) i.e. exculpatory scientific evidence, trustworthy eyewitness accounts, or critical physical evidence then I failed to present evidence that qualified as a McQuiggin v. Perkins actual innocence claim. He said this even though I presented plenty of evidence that proved I suffered a miscarriage of justice and am actually innocent based on the plain language of the law. This was my first question presented in my writ of certiorari. I put it as #1 since I figured it would have been the easiest to resolve by this court. Because of the Supreme Court case law that I showed that proves the district court's rationale on this issue was erroneous and in conflict with these cases, I figured a simple one paragraph order would have sufficed for this issue, remanding back to the Fifth Circuit to grant COA in light of McQuiggin v. Perkins and House v. Bell 126 S. CT 2064, 2077(2005), or other cases that prove the three examples of new evidence listed in Schlup are not an exhaustive list of reliable new evidence that can that can be used. Oral arguments would not even need to be scheduled to argue such a ridiculous and unavailing claim by the magistrate judge, which I proved wrong in only four pages of argument in my writ of certiorari. See pages 22-25 of that writ. How can the Fifth Circuit and this Court allow such an untenable and outrageous argument by a district court to go unchecked when it was so easy to be proved wrong?

If there is any justice left in this country, if this Supreme Court has the honor and dignity that I heard so much about in Justice Gorsuch's and Justice Kavanaugh's confirmation hearings, it will surely not affirm such a blatant, unfounded, and obviously biased denial of a miscarriage of justice exception to the alleged one-year limitation period default. Because of the error Judge Counts made in ruling on my actual innocence claim, and the clear points of law and fact of reasonable jurists I showed to the Fifth

Circuit for a grant of COA on that issue, which found the district court's ruling incorrect, I am bewildered as to how Judge Davis of the Fifth Circuit overlooked those points of law and fact and failed to grant COA on this actual innocence issue. This Court, I assert, should be as equally mystified and examine it further. If not, then these terribly unjust judges in the Fifth Circuit and Western District of Texas will continue to feel like they can have free reign to do as they please and continue to turn a blind eye to credible arguments asserted by unconstitutionally imprisoned petitioners, and then continue to cover up for the other judges who unjustly invent absurd arguments that are completely contrary to Supreme Court law and The Constitution. The following portrays the attitude of the judges I have had to deal with so far:

> "Wink Wink, Tsk, Tsk! Don't worry, we can get away with our outrageous arguments, lies, and twisting of the law, because the petitioner is a stupid pro se prisoner who has less than a one percent chance that the Supreme Court will even look at his case, and even if they do, nothing will happen to us."

As discussed in the statements of the case portion of my writ of certiorari, ever since 2011, when I discovered the predicate claims, I have proved to the lower courts, over and over, that I am unconstitutionally imprisoned. No court seems to care about my issues, and at each phase in the subsequent higher court, every time my claims get denied, it feels as if I am getting kicked in the stomach by my government, who is supposed to be looking out for the interest of "we the people." What makes the pain worse is that the denial always comes without a justifiable reason as to why I was denied. Or, the court makes up lies like Judge Davis did when he denied my COA by saying I failed to make the requisite showing as to all my claims, even though I was very meticulous in making sure I satisfied all the requirements for a COA to be granted. I showed many Supreme Court cases and cases from other courts where jurists of reason would disagree, debate, and prove wrong the district court's assessment of my claims. I was very precise in demonstrating a substantial showing of the denial of my constitutional rights. It felt as if I took a shot in the groin when Judge Counts, who I expected would seek true justice, sat down with an obvious predetermined agenda to deny relief when he had to stretch the law way out of context, then after I objected to his clear errors, the district judge ignored my objections and adopted

Judge Count's recommendation, even though I proved to the district judge by citing to one of his own opinions that he was a jurist of reason who would disagree with Judge Count's assessment of my McQuiggin v. Perkins actual innocence claim.

It's no secret that judges all throughout America give the finger to pro se prisoners who cannot afford to hire an attorney. Time after time, pro se prisoner's appeal to the supposed best courts in the world, seeking relief for credible constitutional violations, but it is very rare for American judges to take pro se petitions seriously. Where is the justice in this country? How can a prisoner continue to prove he is unconstitutionally imprisoned and continually get screwed over by the judges who have taken the oath of office and sworn to administer justice without respect to persons and to show equal rights to the poor and to the rich, to faithfully and impartially perform all duties and to uphold The Constitution and laws of the United States? How are these judges getting away with failing to abide by this oath?

These injustices haven't only in my case. Over the last eight and a half years, I have tried to help many prisoners who are unconstitutionally imprisoned, and I have brought very credible claims of a constitutional magnitude to the courts and thought the grounds would be a slam dunk and get the relief it deserved. But the courts just go on ignoring the claims, or they rubber stamp DENIED DENIED DENIED. I have proven constitutional violations, trial errors, and actual innocence claims many times to no avail. Somehow the writ always ends up in front of some pro-state judge who is biased and unjust. "Where is the justice?" I always scream that question after recovering from another kick in the gut. The denial of my writ of certiorari made it the ninth time it has happened in my case since the convicting judge, Judge Robin Darr suspended my pre-conviction writ of habeas corpus in 2011 and sentenced me to 16 years prison. The stiff sentence occurred because I was trying to alert that court that I believed I was actually innocent based on the plain language of the statute I was charged with.

Where can I get justice if not from the Supreme Court? I was hoping to receive justice from this country's highest Court, since all the other courts have failed me, and since I proved all my time barred claims not only affected me, but thousands of others. But no, that didn't happen. Maybe I can get justice

from Governor Abbott? Maybe from the U.S. Senate or House of Representatives? Maybe from President Trump? They sure know how to give justice where justice is due. A little over a month ago, I sat here in prison watching with interest, the terrible injustice that was unfolding on television regarding Justice Kavanaugh's congressional hearings. I, like millions of others, witnessed his emotional testimony that led to him ultimately receiving the justice that was due him. He spoke of how justice is supposed to be had in America, and how the terrible injustice he was enduring had affected his family. He told us how people were trying to conspire against him to keep him from being affirmed as a Supreme Court Justice all because of political reasons. I watched him tell his story, sometimes in tears, and who can blame him for crying to millions of people who were rooting for him. I spent a lot of time praying with other Christian prisoners, that he would receive the justice that he was due, since it was so obvious those women were being untruthful in accusing him, and there was no proof he committed those sexual assaults. I looked at his case with the same mindset that I look at other prisoners' cases who I have tried to help who have been dealt an injustice by biased courts and judges. I hate it when people are wrongly accused or lied about, or who are given unfair treatment, and I will do what I can to try to repair the injustices. It would have proved to be a terrible thing for the due process in our country had the senate voted against Justice Kavanaugh to become the newest member of our Supreme Court, when there was no proof of the alleged sexual assaults. Sure, there were also many people who were wishing the outcome would been different, but thanks be to God, Justice Kavanaugh's supporters had a louder voice and the senate used good judgement in their decision. What would have happened to him had he had no voice? I feel as if I have had no voice.

The problem I am having with my case is I am just a lowly, poor prisoner who has no voice. No one except my mom, son, and brother are advocating that I am unconstitutionally imprisoned and must be released. The three small voices that I do have are unwealthy and go unheard. Therefore, the courts I have proven my unconstitutional imprisonment to have relentlessly ignored my issues, twisted the law to justify their denials of relief, cherry picked certain statements out of my pleadings, then twisted them out

of context to say I admitted to not deserving equitable tolling. They even flat out committed perjury on a court order by lying and saying I failed to satisfy the requirements for COA to issue when I clearly did. I need a voice!!! Proverbs 31: 8-9 says, to speak up for those who cannot speak for themselves, for the rights of those who are destitute. Speak up and judge fairly: defend the rights of the poor and needy.

Can I please get this court to be that voice for me? This is my last shot at justice. I am sorry that I have no money to pay the court costs for this petition for rehearing or the writ of certiorari, but I have been in prison for eight and a half years, making no money and it set my family back quite a bit when I asked them to pay the $505 fee to the district court for the Fifth Circuit to give me an objective and reasonable chance at justice. That $505 only bought lies and a biased denial of my COA. My family, like many others have lost faith in our courts and are very reluctant to pay court costs to no avail. This court can fix their loss of faith by being a voice for a poor prisoner and granting this petition for rehearing, then granting my writ of certiorari.

Respectfully submitted,

Jared Morrison

PRISONER'S UNSWORN DECLARATION

I, Jared Morrison, declare under the penalty of perjury that the foregoing is true and correct.

Executed on November 26, 2018

Jared Morrison
2604 WCR 115
Midland, TX 79706

11/26/2018
Date