

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

Gary Dan Bilbo, Sr. — PETITIONER
(Your Name)

vs.

Lorie Davis, Dir. TDCJ — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court Of Appeals Fifth Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Gary Dan Bilbo, Sr. #1252971
(Your Name)

CID Clements Prison - 9601 Spur 591
(Address)

Amarillo, Texas 79107-9606
(City, State, Zip Code)

none / Unit # 806-381-7080
(Phone Number)

QUESTION(S) PRESENTED

Is Gary Dan Bilbo, Sr. actually innocent of the judgements and cases against him that he is being imprisoned at this present time?

Can petitioner Mr. Bilbo show that jurists of reason would find it debatable whether Mr. Bilbo is of the crimes, judgements and cases against him? → guilty

Isn't a person who is actually innocent, but being wrongfully imprisoned a violation of their constitutional rights?

LIST OF PARTIES

- ☒ All parties appear in the caption of the case on the cover page.
- [] All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

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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

[] For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix A¹ B to the petition and is

[] reported at N/A; or,
[] has been designated for publication but is not yet reported; or,
☒ is unpublished.

The opinion of the United States district court appears at Appendix C to the petition and is

[] reported at N/A; or,
[] has been designated for publication but is not yet reported; or,
☒ is unpublished.

[] For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix N/A to the petition and is

[] reported at N/A; or,
[] has been designated for publication but is not yet reported; or,
☒ is unpublished.

The opinion of the N/A court appears at Appendix N/A to the petition and is

[] reported at N/A; or,
[] has been designated for publication but is not yet reported; or,
☒ is unpublished.

JURISDICTION

[] For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was June 18, 2018.

[] No petition for rehearing was timely filed in my case. N/A

[] A timely petition for rehearing was denied by the United States Court of Appeals on the following date: N/A, and a copy of the order denying rehearing appears at Appendix N/A.

☒ An extension of time to file the petition for a writ of certiorari was granted to and including June 13, 2018 (date) on May 21, 2018 (date) in Application No. 17A 10399, at Appendix D.

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

[] For cases from **state courts**:

The date on which the highest state court decided my case was June 11, 2014.
A copy of that decision appears at Appendix E.

[] A timely petition for rehearing was thereafter denied on the following date: N/A, and a copy of the order denying rehearing appears at Appendix N/A.

[] An extension of time to file the petition for a writ of certiorari was granted to and including N/A (date) on N/A (date) in Application No. A N/A.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Petitioner Gary Dan Bilbo, Sr. challenges the convictions for aggravated assault through a petition for a Writ of Certiorari in the Supreme Court of The United States to the U.S. Court of Appeals Fifth Circuit. This petition should be excepted because of the facts presented below and statements of the case following and reasons for granting the petition. The petitioner claims have been being barred or dismissed by the courts because of the AEDPA statute of limitations. I believe my being before the Supreme Court now help prove my due diligence to overcome AEDPA's relitigation bar, as explained below and in the statement of the case and grounds following them. I have been and still am today like in Maples v. Thomas, 132 S.Ct. 912 (2012) a legitimate basis for equitable tolling am still using due diligence because I am factually innocent. That is why I haven't and never will quit fighting for my just freedom and release from prison. I am sending four pages of names of people in and of government, businesses and ministries as evidence to prove my due diligence right after this constitutional and statutory provisions found in appendix F. Of course I have friends and family who will testify as well. Even Senator, John Whitmire in Texas has sent me a letter back in May 8, 2007 getting me into touch with West Texas Innocence Project who only really look into the first case 98-1947 which was really and should of only been a misdemeanor that has already been discharged, time served in Oct. 2013. I do have letters as evidence on all the people and organizations listed of the four pages inclosed with this petition if needed to prove my statement. I do not have access to a copy machine to copy them here in prison so I will have to send the only original I have at your request! Applying to my case as in McQuiggen v. Perkins, 133 S.Ct. 1924 (2013) the U.S. Supreme Court held that actual innocence is a gateway through

Constitutional and Statutory Provisions Involved

which a habeas petitioner can make it into federal court even though the AEDPA statute of limitation has run. McQuiggen is an important case because it potentially opens the door to the federal court house for prisoners whose claim like Mr. Billo that are innocent but whose conviction are so old that they otherwise have been barred by AEDPA's one year statute of limitations. The petitioner did actually file my writ of habeas corpus within one year after I started serving my sentence in October 2013 on this case. But the lower courts are saying I should have filed my writ in 2004/2005 even though I had not started serving time on this case until 2013. I was imprisoned on September 1, 2004 and in early 2005 I was wrongfully retaliated against by TDCJ guards who took all the property I had, my legal work, addresses and threw them away. I was cut off from my family and friends for 3 yrs because of unlawful behavior from TDCJ employees. So I didn't even have access to my case number's until the State Counsel for Offenders finally got me a copy in April 16, 2009 of my indictment. Many of the officers at McConnell were a part of an organized crime organization that was exposed by the federal government in 2013. These officers eventually and others eventually wrongfully put me into administration segregation (ad. seg.) in Dec. 2010 because of my strong Messianic and Jewish Christian belief in Almighty God, and because I wasn't a drug dealer, criminal like the TDCJ officers were, I did the honest and just thing. Being put in ad. seg. in Dec. 2010 was a

16.

Constitutional And Statutory Provisions involved continued hindering my due process of even more by restricting inmates in ad. seg. to receive books from the law library, we could only get some copies from the books at times. Which is a violation of my constitutional rights upheld in the U.S. Constitution 14th amendment. Note that 34 TDCJ officers at McComall Unit were indicted in 2013 and many were put in prison and others lost their jobs. These and others were responsible for wrongfully and unlawfully doing me and others harm, continuing a chain criminal conspiracy against me, even upto and at this present time. I even have a civil right 1983 lawsuit in the federal court for the Northern District in Amarillo, Texas at this present time under case No. # 2:17-CV-117-C and I am under duress by the state of Texas and TDCJ. When I first was put in prison in Sept. 2004 I filed a legal motion to appeal my case. I sent the motion to the clerk in Lamesa, Texas where the District Judge over me and Garza county presided. The D.A. and District Judge over Garza County where I lived and my case was, they actually live in Lamesa, Texas in Dawson county. They reside over 3 county's. The clerk or secretary rejected my claim and motion saying I had no case in their court, hindering my due process of law and not correcting or helping me with my clear error. So I did attempt to do my direct appeal on time, but I was just not told why my appeal was rejected. It was way over the one year limit before I learned about the miss hap.

Evidence of People, Governments, Businesses, Ministries

5-8-2007 Senator, John Whitmire
 4-6-2005 Attorney, James Randall Smith
 4-12-2007 Warden, Mr. Raynaldo Castro
 5-12-2007 Honorable, Governor Rick Perry
 5-19-07 Garza County Clerk
 5-31-07 Benny Hinn Ministries
 7-4-07 Attorney, Ms. Heather McDonald, ³ Att. Mr. Blackburn / West. Tx. Inn. Pro.
 6-8-07 Lion and Lamb Ministries
 6-22-07 Kenneth Copeland Ministries
 7-18-07 Assembly of Yahweh
 7-13-07 Warden, Mr. Oscar Mendoza
 7-16-07 Billy Graham Evangelistic Ass.
 7-30-07 Sheriff, Mr. Kenny Ratkic
 7-30-07 Attorney, Heather McDonald / West Texas Innocence Project
 8-21-07 United States Department of Justice - Civil Rights Division
 8-21-07 American Civil Liberties Union
 8-28-07 West Texas Innocence Project
 9-5-07 The Salvation Army - C. Terr. Headquarters
 9-9-07 Executive Director, Natalie Roetzel - Innocence Project of Texas
 9-20-07 Attorney, Roderique S. Hobson, Jr.
 9-27-07 Att. Rod. S. Hobson, Jr. (Two Letters - one from me - one from Rod Jr.)
 10-10-07 State Bar of Texas - Elma Garcia
 10-16-07 Judge, Ms. Carter T. Schildknecht - 106th District Court
 10-25-07 Texas Board of Pardon and Paroles
 10-29-07 Senator, John Whitmire
 10-29-07 Attorney, Mr. David Moody
 11-6-07 Att. Mr. David Moody
 11-8-07 Judge, Ms. Carter T. Schildknecht - 106th Dist. Court
 11-26-07 In The 106th District Court
 3-26-2008 Attorneys, Habern, O'neil, and Burkley
 12-12-2007 TDCJ Director, Nathaniel Quartermann
 3-30-2008 Senator, Robert L. Duncan
 4-7-2008 Clerk, Mr. Jim Plummer
 5-1-08 Attorneys, Habern, O'neil, Burkley & Pargan, L.L.P.
 5-16-08 V-3 Att., H.O.B.+P
 6-12-08 Mr. Joseph S. Sroub - Politics and Government Editor
 6-23-08 CFFM, Inc. - Legal Mitigators
 7-7-08 Mr. Jack Douglas - TDCJ
 7-8-08 Warden, Mr. Mendoza
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Evidence of People, ect.

7-18-2008 Attorney, Mr. David Perry.
 7-28-2008 Attorney, Mr. David O'Neil and Associates
 7-31-08 Office of Inspector General
 8-12-08 Center for Constitutional Rights - Staff
 8-22-08 Clerk, U.S. District Court - Southern District
 8-22-08 Mr. Jack Douglas
 9-12-08 Officer, Inmat Trust Fund - TDCJ (case # 2:08-CV-00297)
 9-13-08 Texas Department of Criminal Justice, Ex. Director Brad Livingston
 9-16-08 U.S. District Court - Southern District (no. 2:08-CV-00297)
 12-15-08 The 106th District Court - Judge Shildnecht / Petition for Commutation of Sentence
 12-18-08 106th Dist. Court - Letter from Judge
 12-25-08 District Judge, Shildnecht - 106th Dist. Court -
 1-21-2009 Attorney General, Greg Abbott
 1-30-2009 State of Texas Legislature - Remonstrance & Motion Affidavit of Statement
 1-30-09 → House of Representatives, Speaker Tom Craddick
 1-30-09 → Honorable Governor Rick Perry
 1-30-09 → Lt. Governor David Dewhurst
 1-30-09 → Attorney General, Greg Abbott
 1-30-09 → Director, Texas Board of Pardons and Parole
 9-24-2007 Philadelphia Church of God
 10-25-2007 Sheriff, Joe Hunt
 4-4-2008 Kenneth Copeland
 7-28-2008 Jesse Duplantier
 10-15-2008 Center for Constitutional Rights
 5-4-2009 Attorney, Rodrique S. Gibson, Jr.
 5-12-2009 Baptist Standard - Editor, Marv Knox
 6-1-09 In Touch Ministries
 7-8-09 Attorney, James Randall Smith
 7-10-09 In Touch Ministries
 7-15-09 Att. James Randall Smith
 7-28-2009 VIRGIL A. Bilbo (I spoke to my father for the 1st, & last time in prison.)
 8-1-09 Set Apart Ministries - Mr. Trey
 8-5-09 Texas Board of Pardons and Paroles
 9-1-09 Set Apart Ministries - Trey & John
 9-1-09 Dr. Charles F. Stanley - In Touch Min.
 9-21-09 Coastal Bend College - L. Garza, Coordinator
 9-3-09 A-remaria Mutual Funds
 9-22-09 Texas Land Bank - President, Justin L. Wietorn
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Evidence of People, ect.

10-22-2009 Calvary Outreach - Leroy Surface
 10-31-09 World Challenge, Inc. - David Willkerson
 10-31-09 Honorable Judge, U.S.D.C., Northern District
 11-4-09 Clerk, USDC - ND
 11-18-09 In Touch Ministries
 12-4-09 YAVOH - Director, Monte W. Judah - Lion & Lamb Ministries
 1-5-2010 Concerned Christians for Inmates
 1-7-10 Concerned Christians for Inmates
 2-24-10 CCFI
 3-8-10 U.S. District Court - N.D. (Case no. 5-10-CV-35-C)
 3-28-10 CCFI - Concerned Christians for Inmates
 6-7-10 Att. Ms. McDonald - West Tx. Innocence Project
 6-30-10 Avalanche Journal, Editor - Lubbock, Tx.
 10-13-10 Clerk, Jim Plummer - Targa Co.
 11-19-10 CCFI
 1-10-11 Parole Officer, Alice McClellan
 3-28-11 Texas Innocence Network - Houston, Tx.
 4-1-11 Movement of Change - Mr. Cook (Houston, Tx.)
 4-8-11 West Tx. Innocence Project of Tx. - Dir. Nick Villars
 5-10-11 In Touch Min.
 5-13-11 Ms. Nick Villars - WTIP
 8-31-11 USDC - ND, Judge Sam Cummings (civil no. 5:10-CV-35-C),
 10-6-11 USDC - ND, Judge
 10-10-11 Manifest Non Obstante Verdicto Network - Rengile Santiago
 10-31-11 USDC - ND, Judge Sam Cummings (5:10-CV-35-C) (2-Order, Judgment)
 11-11-11 CCFI USDC

2-4-2013 TDCJ Ex. Director, Brad Livingston
 4-10-13 In Touch Ministries - Dr. Charles F. Stanley
 8-1-13 106th District Court - 11.07 writ Case no. 13-08-06808 / 98-1947
 9-11-13 TDCJ Ex. Dir. Brad Livingston
 10-15-13 Mr. Charles Stanley - ITM
 10-21-13 Court of Criminal Appeals of Tx. - case no. 98-1947 / D.A. Mike Munk
 11-6-13 In The 106th DC - Ass. DA Jason Buynosek - States answer
 11-6-13 Clerk, Jim Plummer
 11-13-13 Case No. 98-1947-A - In 106th DC
 12-10-13 Mr. Michael Schwab - He visited me in 2017, April
 12-19-13 Court of Criminal Appeals of Texas - No. 98-1947-A
 Appendix - F 20.

Evidence of People, ect.

1-20-2014 Notice - Court of Appeals of Tx.
 4-14-14 In Touch Ministries
 4-30-14 Case No. 98-1948-A / Court of Criminal Appeals of Tx
 4-30-14 Case No. 98-1949-A / In The COCA of Tx.
 5-5-14 106th DCourt (98-1949A) & (98-1948A)
 5-19-14 States Answer for cases 98-1948A & 98-1949A / Asst D.A. J. Buynosek
 6-13-14 Court of Crim. App. of Tx (WR-80,662-03 & WR-80,662-02)
 6-28-14 Kenneth Copeland, Evangelist
 8-20-14 State Counsel for Offenders - Chief Appellate Attorney, Kenneth Nash
 9-5-14 SCFO

 9-8-2014 U.S. District Court - N.D. (no. 5-14-CV-152-C)
 9-12-2014 U.S.D.C. - ND (no. 5-14-CV-157-C)
 9-12-14 TDCJ Region VI - Mr. Fermond Fuster
 9-11-14 USDC - ND (Deficiency Order, Order) 5-14-CV-152-C
 9-26-14 Clerk - USDC (Def. Order, Order) 5-14-CV-157-C / 9-29-2014
 10-1-14 Motion / Extension Emergency USDC
 10-21-14 USDC - ND
 10-27-14 USDC - ND (two Orders)
 10-27-14 Petitioners Petition - USDC - ND
 11-10+24-14 Kenneth Copeland - Min
 12-16+19-14 Order USDC - ND
 1-21-14 New Consolidated Civil Action No. 5-14-CV-157-C closed / joined to 152-C
 3-18-14 Freedom In Jesus Ministries
 3-31-15 (2015) Respondents Case no. 5-14-CV-152-C USDC - ND (Att. Gen. Ken Knox
 4-1-15 Monte Judah - Lion & Lamb Min
 5-18-15 Parole - applied for SS - Social Security Card, & Birth Certificate ordered
 6-2-15 Parole Interview - officer S. Tant
 7-22-15 Parole - not granted on 98-1948 - next Parole date 7-1-17
 9-20-16 (2016) (In Ad. Seg. Reentry Program - Ramsey I) RTI International / BJS
 11-25-16 Freedom In Jesus Ministries - Don Castleberry, Jr.
 2-21-2017 State of Tx. Board of Pardons & Paroles - Estela De Hoyos
 3-23-17 USDC - ND Judge S. Cummings - Dismissed Writ Case No. 5-14-CV-152-C (157)
 4-7-17 Motion For Appeal - In 5th Cir. Court of Appeals
 4-10-17 US COA 5th Cir - sends Motion Back to USDC
 4-18-17 USDC - ND (Order)
 4-19-17 US COA 5th Circuit - Clerk
 5-5-17 USDC - ND Forma Pauperis Granted
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STATEMENT OF THE CASE

This case actually consist of two cases when it started out that are identical, being the same! So the United States District Court For The Northern District Of Texas, Lubbock Divison combined the two cases USDC No. 5:14-CV-152 and USDC No. 5:14-CV-157 into one case USDC No. 5:14-CV-152-C. Then the United States Court of Appeals consolidated the two identical cases also into one case USCA No. 17-10399. This case is before the Supreme Court Of The United States on the petition of Gary Dan Bilbo, Sr. for a Writ of Certiorari. The compelling reasons argued in this petition will show beyond any doubt that the Petitioner, Mr. Bilbo is actually innocent of both identical judgements in case USCA No. 17-10399. I believe this case is of imperative public importance also to set a precedence for future cases to restore justice for the simple man or women who make a simple mistake that forces us/them into a mammoth legal system that swallow's them up because they take pleasure in going to the extreme, even radical in their judgements and actions. In this statement of the case I have included in the next six pages of this petition my five grounds of evidence and facts about my case. These simple grounds will explain in the details needed to show the proof that the petitioner is actually innocent of threatening any officer, and therefore innocent of the cases and judgement entered against petitioner on September 21, 1998 on both cases No. 98-1948 and No. 98-1949 in the State of Texas 106th District Court. These five grounds listed or the actual same grounds of facts brought up in every state and federal court, but simply overlooked and ignored based on the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA)...

Statement of the Case

Please apply my statements and facts in Ground One (pg. 25) of actual innocence, being free from legal guilt or fault and due process of law with the case as in McQuiggen v. Perkins, 133 S.Ct. 1924 (2013) that the U.S. Supreme Court held that actual innocence is a gateway through which a habeas petitioner can make it into federal court even though the AEDPA statute of limitation has run. Also applying the U.S. 14th amendment here and the other grounds where I have been deprived of liberty, my property and due process of law. Applying the facts and statements in Ground Two (pg. 25, 26) of Fundamental Miscarriage of Justice, their failure in the administration of Justice, with the U.S. 2nd amendment giving me the right of the people to keep and bear arms and shall not be infringed. The officers and Judge's action also led to and violated my U.S. 8th amendment rights to being imposed with excessive bail, excessive fines and cruel and unusual punishments inflicted on petitioner, Mr. Billo. Applying the facts in Ground Three (pg. 26-28) of ineffective assistance of counsel with Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052 (1984), hold that a habeas petitioner can have his conviction or sentence reversed by showing deficient performance by his lawyer and resulting prejudice. Also note Hill v. Lockhart, 106 S.Ct. 366 (1985) where a defendant accepted a plea offer as the result of IAC and where counsel misleads or misinforms the defendant. (due process violated) Also as in Walker v. State, 524 S.W.2d 712 (Tex. Cr. App. 1975). Misled,

Statement of the Case

because Mr. Bilbo was not told of any range of punishment. And applying the facts in Ground Four (pg 28/29) of incorrect and erroneous admonishments by judge and erroneous punishment with Boykin v. Alabama, 395 U.S. 238, 89 S.Ct. 1709 (1969) shows relief was granted due to the fact that the trial judge failed to inquire into the voluntariness of the plea and the possible consequences of such plea. & the petitioner was misled and prejudiced against because it was never told of any range of punishment. Also applying Ex parte Torar, 901 S.W. 2d 484 (Tex. Crim. App. 1995) to ground #4 that the court is obligated statutorily to advise the defendant upon a plea of guilty of the range of punishment. Note Ex parte Smith, 678 S.W. 2d 78 (Tex. Cr. App. 1984) Guilty plea induced by erroneous admonishments by the trial judge was not entered into knowingly and voluntarily. I was under duress. And applying the facts and testimony in Ground Five (pg 29/30) of petitioner's violation of his religious worship and religious freedom. These extraordinary circumstances need serious consideration being Almighty God warning and judgments and beliefs that this nation and its laws were founded on. Note that petitioners U.S. 1st amendments rights were violated before he was put into prison, not just after. Note State of Texas Constitution - Preamble: Humbly invoking the blessings of Almighty God, the people of the state of Texas, do ordain and establish this Constitution. The state of Texas has violated their own constitution by violating petitioners state of Tx. Const. #1st, #4th and 6th amendments. Texas has not been subject to the U.S. Const. Texas has hindered my freedom of worship and wrongfully interfered.

Statement Of The Case

A. Ground One: Actual-Innocence / Free from Legal Guilt or fault / Due Process of Law. Court Records show evidence of Proof that officers were not threatened! Officers Bobby Dean and Ramon Holguin both gave sworn testimony in court on/or around July of 1998 that I, Gary Bilbo never intentionally and knowingly threatened with imminent bodily injury by using and exhibiting a deadly weapon, to wit a fire arm. There never was any assault on or against any officer. I have contacted the court reporter and requested to purchase the copies of the sworn statements of the officers. But they have refused to comply and have not answered me or my family's request! So I can not send them in attached to the back of this 2254 Writ of Habeas Corpus at this time, as I would have hoped. I do Humbly Invoke the Blessings of Almighty God and the People of The United States of America to help me establish my legal Constitutional Rights to obtain justice and my Sovereign Freedom!

B. Ground Two: Fundamental Miscarriage of Justice / Failure in the administration of Justice. On or about the 30th day of March 1998 I was asleep in my own bed in my home. My youngest son Jacoby entered into my bedroom and woke me up. He was scared and told me there were men in our home with guns. Coincidentally I had been to the shooting range that day earlier and my pistol was still out. I had laid my gun on top of its lock-box on my head board over my bed before I fell asleep. That was the only reason my gun was even out. I did have a licensed hand gun permit / license to carry my pistol at that time. Only after talking to my youngest son did I decide to pick my gun up out of self-defense for the both of us. He did not really know what was going on because he was so young. So I walked into my own living room where the officers were. Until at that moment I

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Statement Of The Case

entered my living room I had no idea who was in my house. After a short talk I unloaded my pistol and gave it to Officer Bobby Dean. We kept on talking and then because there never was any threat on my behalf the officer gave me back my gun. So I reloaded it with its clip. Some time lapsed and we talked some more. Then they decided to take me to the police station with them because of the mishap that took place earlier that evening in case No. # 98-1947. So Officer Bobby Dean asked me for my pistol which I immediately unloaded again and gave to the officer. I got dressed and left with them. I never threatened any one with my gun! Officer Ramon Holguin testified in court and said that if I would have threatened him with my gun, that he would have shot me. Of course I was not shot because I never threatened him or any officer. I was not in the wrong for having possession of my pistol and I never displayed or used my gun unlawfully.

C. Ground Three: Ineffective Assistance of Counsel / Was denied effective assistance of counsel on several accounts. My first Attorney, Rod Hobson in 1998 never investigated my case properly. He never counseled me about the facts on my case. He never asked me what really happened on the evening of the alleged threat or assault on the officers that entered my home. My attorney did not want to have to go to trial. But I expected to have to go to trial in order for me to explain about the mishap. My attorney led me to believe I was only plea-bargaining for a 10yr. probation sentence only! Until I showed up where my attorney, Rod Hobson, the judge and the D.A. were to sign the plea bargain agreement on Case No. # 98-1947, for only a 10yr. probated sentence. I was not aware that any other cases or charges were a part of the plea bargain. Please understand that I was not only ignorant of

Statement Of The Case

the law at that time, but I was hurt and scared to death, and really didn't hear or understand everything that was said or going on. All of a sudden now they got these other two cases (98-1948 & 98-1949) on the table they want me to sign. I was not going to sign them. But my lawyer says, oh don't worry because these two cases are deferred adjudicated and won't count and even be erased as though they never existed. As for as my conscience the two cases already did not exist, because I never threatened the officers. But Mr. Hobson says not to worry, all I got to do is the 10 yr. probation and the other two cases will be erased. He said he had talked with my family and he was assured I could do the probation with no problem. Again this was the first I knew about any of all this. So under-duress and ignorance, through their trickery and deception I went ahead and signed the three papers for 10 yr's probation. Not even being told or understanding what deferred adjudicated meant! God forgive me, because ignorance can cause one to sin. That is what I did by agreeing to a lie, unknowingly. I gave in to the peer-pressure. And just for the record to the best of my legal understanding the laws have changed since then. But at the time I did commit my only crime on case No. #98-1947, it was then and should of only been a misdemeanor. And I have and do repent of my part in error and sin on what really took place that evening. I did all 10 yr's of the sentence in full and discharged case No. #98-1947 on October 22, 2013! So my guilty plea was involuntary because of attorney's ineffective counsel. In August 20, 2004 judgment was entered again against me on all three cases, because my probation was revoked for failure to complete community service. My attorney Philip Furlow in 2004 never asked me either what really happened. Both attorneys in 1998 and 2004 never counseled or told me about any other ranges of punishment.

Statement Of The Case

Neither of the attorneys represented me effectively. They were wrongfully being influenced by outside interference from family, friends, and Church Ministers. The range of punishment was erroneous that was imposed upon me. I understand the law now somewhat, but I had no idea about the law then or about the facts of punishment. I only signed for the 10 yr. probation under duress and ignorance, through their trickery and deception. The attorneys did not consult with me the defendant nor inquire as to any defenses, nor advice. They did not attempt to even determine if I was guilty. Before the hearing in 2004 the D.A. offered me a plea bargain for a total of 6 yr's imprisonment. I had no idea until after the hearing in 2004 that the two cases on the officers could cause me to receive more time then the 10 yr. sentence. My attorney in 2004, Philip Furlow was being wrongfully influenced by being paid for by my family and Church Ministers who were trying to help, but they did not know the law either. Philip Furlow never warned me of the possible range of punishments about the two deferred adjudicated cases!

D. Ground Four: Incorrect and Erroneous Admonishments by Judge / Erroneous Punishment. I was misled and prejudiced against because I was never told of any range of punishment. The guilty plea was induced by erroneous admonishments by the Judge against me because it was entered into unknowingly and not voluntarily. If I would have been correctly admonished about the facts I would have never pleaded guilty in 1998. If I would have been correctly advised in 2004 I would have done just the opposite and I would have taken the plea bargain for 6 yr's of total imprisonment they offered me. I remind you that there are three cases I received over the mishap. And there are two separate court hearings too

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the two parts to my judgment and imprisonment. I was sentenced to 10 yr's probation - deferred adjudicated on Sept. 21, 1998 only after I under duress and ignorance through trickery and deception signed the plea-bargain agreement. But after being wrongfully revoked on probation for failure to complete community service. (I still had 4 yr's left on my probation sentence to complete all my community service!) I was sentenced to 10 yr's, plus 20 yr's, plus 20 yr's (stacked - to be run consecutive) A 50 yr. Total Sentence on August 20, 2004 because I refused to take a 6 yr. imprisonment sentence plea-bargain. I was not warned about the possible consequences of my plea's. The Judge failed to inquire into the voluntariness of the guilty plea and the possible consequences of such a plea. The courts are obligated statutorily to advise me the defendant upon a plea of guilty of the range of punishment. It was misleading by not knowing the truth and facts about the range of punishment.

E. Ground Five: Violation of My Religious Worship and Religious Freedom/Religious Freedom Restoration/Extraordinary Circumstances.

All men has a natural and infeasible right to Worship Almighty God according to the dictates of their own conscience. No human authority ought in any case whatever, to control or interfere with the rights of conscience in matters of religion. It is the duty of the legislature to pass such laws as may be necessary to protect equally every religious denomination. That includes, "The Cleaning Springs Ministry, Inc.", that I started and founded on January 1st, 2000! I had a legal 501(c)3 none profit licensed by the State of Texas and The United States Federal Government. To Almighty God be all the Glory.

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I was in the Ministry Full Time when I was wrongfully revoked from my probation sentence. I was called by our Father God into Ministry in 1997. I do admit I have made mistakes along the way because of the lack of strong leadership, that I have sought for. Both the Church and Government leaders have also made mistakes concerning their actions and judgments against me. But what they intended for evil, Almighty God has worked it out for good. I have been studying and praying in Faith for us/you all, for the past 10 yrs. And now I know the Truth and Facts, and the Truth shall set us Free, Free from the curse over this nation. And freedom for me from this wrongful imprisonment. My being imprisoned was based on presumptions and not facts and truth. That is a miscarriage of justice. Faith first starts in the heart of man and it's unseen in the beginning. But then it grows up. What is flesh is flesh and what is spirit is spirit. This case is based on Extraordinary Circumstances being at true, Church v. State discourse. I'll be 61 yrs old this August 3, 2018 and I am still strong and in good health. I am ready to be released back out into the free world to serve both God and my country. I am a true patriot at heart who loves both God and my country. I am not a threat to society or my community!

REASONS FOR GRANTING THE PETITION

Mr. Bilbo, the Petitioner prays that whatever steps the court deems necessary be issued to vacate his conviction and sentence, and direct the state of Texas either to retry him within a reasonable time or release him because he is actually innocent. I the petitioner realize for this to happen the legal process probably must start back in the United States Court of Appeals for The Fifth Circuit, then to the USDC and back to the state of Texas. I am only a pro-se inmate attempting to present these facts of my case to the Supreme Court of the United States to the best of my ability without the help or support of any attorney. I hope and pray some day to get the support and help from an attorney that is needed to present my case properly. I am now in your court invoking your help and mercy for mainly one reason, I am factually innocent/actually innocence. I believe that if I would have gotten an attorney's help I would already be out of prison a free man today. So I am at your Honorable Judges and Supreme Courts mercy today. May Almighty God our creator bless us and show us his grace and mercy! This petition should be granted and excepted because Mr. Bilbo has showed that the facts, grounds and statements presented of this case show that jurists of reason would find it debatable whether Mr. Bilbo is guilty of the crimes, judgements and cases against him. Petitioner has showed that fairminded jurists would more likely than not have found him innocent, as shown in the case Barefoot v. Estelle, 463 U.S. 880, 893 (1983) that held this means the appellant need not have to show he would prevail on the merits, but must demonstrate that the issues are debatable among jurist of reason.

Reasons For Granting The Petition

That the court could resolve the issues in a different manner or that the questions are adequate to deserve encouragement to proceed further.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Gary Don Bilbo, Sr.

Date: July 18th, 2018