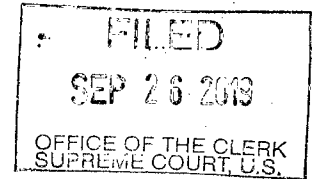


18-7364

No. _____



IN THE

SUPREME COURT OF THE UNITED STATES

BRANDON CHAMBERS — PETITIONER
(Your Name)

vs.

WILLIAM STEPHENS (DIRECTOR — RESPONDENT(S)
TDCJ)

ON PETITION FOR A WRIT OF CERTIORARI TO

FIFTH CIRCUIT COURT OF APPEALS, US

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

BRANDON CHAMBERS #1864192

(Your Name)

TELFORD UNIT, 3899 State Hwy 98

(Address)

NEW BOSTON, TEXAS 75570

(City, State, Zip Code)

N/A

(Phone Number)

QUESTION(S) PRESENTED

What responsibility/power does a State District court have in interpreting a provision of a statute, and when interpreting a statute to determine legislature intent, how closely does it need to follow clearly defined punctuational and grammatical language rules?

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:

TABLE OF AUTHORITIES CITED

CASES		PAGE NUMBER
	Macleod v. Nagle, 48 F.2d 189, 191 (9th Cir. 1931)	

5

STATUTES AND RULES

Texas Penal Code 21.02(g)

OTHER

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 A to the petition and is

☐ reported at _____; 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☒ is unpublished.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 B to the petition and is

☐ reported at _____; 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☒ is unpublished.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 _____ to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

☐ reported at _____; 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☐ is unpublished.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 28, 2018.

☒ No petition for rehearing was timely filed in my case.

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

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ____ A _____.

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 _____.
A copy of that decision appears at Appendix _____.

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

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ____ A _____.

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Fourteenth Amendment, United States Constitution

STATEMENT OF THE CASE

This case arises out of the State District court's unsupported interpretation of the affirmative defense listed in Tex. Penal Code 21.02(g). During the trial Chambers' counsel requested a jury instruction for the affirmative defense under 21.02(g). The prosecution objected, claiming it wasn't available. After the judge couldn't locate any information quickly on the matter he called in a unqualified staff attorney to help find/interpret legislature's intent.

This attorney found "no" supporting documentation, however, against the general rules of punctuation and grammar of the English language, sided with the State, the trial court went along with this and denied the affirmative defense instruction to the jury.

Various arguments on this issue have been presented to every post conviction court, from the appellate court, state habeas court, federal habeas and the Fifth Circuit. Not a single court, nor the opposition have been able to show any caselaw to support the district court's determination of the language of 21.02(g), more importantly, they also have not shown any support for a court failing to follow the rules of the English language when interpreting a statute.

REASONS FOR GRANTING THE PETITION

The issue being presented to the Court today has to do with a topic that comes into play on a daily bases across the country — a court interpreting legislative intent of a statute — most of these occasions are quickly settled as caselaw often exists that helps guide the court. However, the question presented today has to do with when caselaw does not exist, and the court is left on its own to interpret legislatures intent.

When this happens, how important is it that the court follow well defined rules of the english language concerning punctuation and grammer?

To clairify what this court is being asked we offer the example from the underlying case. Texas Penal Code 21.02(g):

(g) It is an affirmative defense to prosecution under this section that the actor:

(1) was not more than five years older than:

(A) the victim of the offense, if the offense is alleged to have been committed against only one victim; or

(B) the youngest victim of the offense, if the offense is alleged to have been committed against more than one victim;

(2) did not use duress, force, or a threat against a victim at the time of the commision of any of the acts of sexual abuse alleged as an elment of the offense; and

(3) at the time of the commision of any of the acts of sexual abuse alleged as an element of the offense:

As (1) ends in only a semicolon, the normal rules of language state that (2) is completely seperate from (1), since no conjunctive language was included. As there is between (2) and (3) (this shows that the legislative body understood the normal usage). Also see Macleod v. Nagle, 48 F.2d 189, 191 (9th Cir. 1931)("since the semicolon has been used to set off various subdivisions of the statute, the initial phrase... cannot be presumed to carry over into the subsequent clauses...")

Under normal usage of the english language, the Texas legislatures intent was to establish two affirmative defenses against the punishment of 21.02, (g)(1) and (2).

It should be noted when reviewing legislative intent of this issue in 21.02, that 21.02 is made up of several underlying offenses under Texas law. Non of

these underlying offenses have affirmative defenses like that of 21.02(g), so a defendant could still be charged with the lesser offenses.

In other words the affirmative defense against 21.02 only excludes a defendant from the harshest punishment available under Texas law, not from prosecution entirely.

With all of this in mind, it is highly likely that the legislative intent of the subsection was to create two separate affirmative defenses, as the plain and normal usage of the statutes construction would be read.

With this example in hand, what might should a court give to the way a legislative body constructs a statute?

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Braeton Chambers

Date: September 26th, 2018