

IN THE UNITED STATES SUPREME COURT

18-7625

THOMAS, FLORENCE v. LORE, DAVES
PETITIONER RESPONDENT

PETITIONERS RULE 44 MOTION TO COMBAT JUSTICES

COMES NOW PROSE PETITIONER, THOMAS, FLORENCE TO
CERTIFY THAT SAID REQUEST IS BEING FILED IN
GOODFAITH AND NOT FOR DELAY.

GOODFAITH IS SHOWN AND DEMONSTRATED WHEN A PARTY
SEEKS REVIEW OF ANY ISSUE(S) NOT FRIVOLOUS, HOW-
ARD v. KING, 707 Fed 2d 15, 220-21 (5TH CIR, 1983).

GROUND(S), A STATE COURT OF LAST RESORT HAS DEC-
IDED AN IMPORTANT FEDERAL QUESTION IN A WAY
THAT CONFLICTS WITH THE DECISION OF ANOTHER
STATE COURT OF LAST RESORT.

*I CERTIFY SAID GROUND(S) ARE LIMITED TO INTER-
VENING CIRCUMSTANCES OF SUBSTANTIAL OR CON-
TROLLING EFFECT OR TO OTHER SUBSTANTIAL GROUNDS
NOT PREVIOUSLY PRESENTED.

FLORENCE, MOVE THE COURT / CLERKS TO LIBERALLY CON-
STRUE HIS PROSE PLEADINGS, HAINES v. KERNER, 404
U.S. 520, 521 (1972).

THIS COURT LONG AGO STATED THAT [THE SOCIAL
STIGMA RESULTING FROM AN ADJUDICATION OF PAR-
ENTAGE CAN NOT BE IGNORED, RIVERA v.
MINNICH, 107 S. CT. 3001, 3007-08 (1987)

THIS COURT, Id. 3007, ALSO STATED THAT A PATERN-

ITY PROCEEDING THUS IMPLICATES SIGNIFICANT PROPERTY AND LIBERTY INTERESTS OF THE DEFENDANT.

THE Id. 3007 COURT ALSO STATED IT DOESN'T MATTER WHETHER IT'S CRIMINAL OR CIVIL ADJUDICATION OF PARENTAGE. (SEE, TEX. FAMILY CODE §160.104(2))

SEE, MECKLER V. COLON, 719 Fed 788, 797 (5th CIR 1983). A FEDERAL COURT CAN MAKE A DETERMINATION REGARDING PARENTAGE.

THIS COURT LONG AGO STATED THAT, JACKSON V. VIRGINIA COMES AS CLOSE TO AUTHORIZING EVIDENTIARY REVIEW OF A STATE COURT (10CR1217 = 01-11-008220CR) CONVICTION ON FEDERAL HABEAS CORPUS AS ANY OF OUR CASES. THERE WE HELD THAT A FEDERAL HABEAS COURT MAY REVIEW A CLAIM THAT THE EVIDENCE (STATE'S #12) ADDUCED AT A STATE TRIAL (AUGUST 5, 2011, #10CR1217) WAS NOT SUFFICIENT TO CONVICT A CRIMINAL (CRIMINAL PATERNITY) DEFENDANT BEYOND A REASONABLE DOUBT. HERRERA V. DR. DIST. CTD. COLLENS, 113 S. CT. 853, 861 (1993), CITING JACKSON V. VIRGINIA, 443 U.S. 307, 318 (1979).

THE COURT Id. STATED THE REVIEW IS LIMITED TO THE RECORD EVIDENCE.

OUR TEXAS LEGISLATURE IN TEXAS CODE FAMILY 160, §160.103(2), STATED THAT THIS CHAPTER GOVERNS EVERY DETERMINATION OF PARENTAGE IN THIS STATE.

AND THAT THE COURTS OF THIS STATE SHALL APPLY THE LAW OF THIS STATE TO ADJUDICATE PARENT AND CHILD RELATIONSHIP. Id. §160.103(b).

SEE, BOYKIN V. STATE, 818 SW2d 782, 783, 785 (TEX. CRIM. APP. 1991), THE LAST COURT ON CRIMINAL RELATED MATTERS, STATED OUR LEGISLATURE IS ~~ENTITLED~~ CONSTITUTIONALLY ENTITLED TO EXPECT THAT JUDICIARY WILL FAITHFULLY FOLLOW SPECIFIC TEXT.

THE RECORD EVIDENCE, LOCKBIT / DIRECT APPEAL # 01-11-00822CR JULY 30, 2013 JUDGMENT SHOWS THAT THIS COURT OF APPEALS OF LAST RESULT, DID NOT FOLLOW THE SPECIFIC TEXT, TEX. FAM. CODE § 160.503 (a), § 160.504 (a), WHICH STATE'S A PATERNITY REPORT / TESTING MUST BE CONDUCTED IN AN A.A.B.B. ACCREDITED LABORATORY; THAT SAID REPORT MUST BE SIGNED UNDER THE PENALTY OF PERJURY.

THE 01-11-00822CR COURT, STATED ON 7-30-2013 ON ADMISSIBILITY OF STATE #12 DNA REPORT EVIDENCE FLORENCE (PROSE) POINTS OUT THAT SMUIS LABORATORY WAS NOT ACCREDITED BY AMERICAN BLOOD BANKS, ~~HOWEVER~~ HOWEVER THIS FACT IS IRRELEVANT.

COTUR CHIEF LAW ENFORCEMENT OFFICER ATTORNEY THE RESPONDENTS COUNSEL LONG AGO STATED IT IS RELEVANT, SEE, TEX. ATTY. GEN. INFORMATION / MEMORANDUM NO. 97-03 O.C.S.E DEPUTY A.G. APRIL 10, 1997.

COTUR LEGISLATURE STATED IT IS RELEVANT WHEN ENACTING TEXAS FAMILY CODE § 160, § 160.503 (a). THE 01-11-00822CR 7-30-2013 JUDGMENT CONFLICTS WITH THE SAME COURT'S OPINION / JUDGMENT ON

THESE SAME EXACT ISSUES IN, IN RE TEXAS
ATTY. GEN. 276 SW3d 611, 615 (TEX. APP. HOUSTON
1ST DIST. 2008), REPORT DID NOT COMPLY WITH
TEX. FAM. CODES §160.503(a), (b), §160.504(a)
SUBSTANTIVE REQUIREMENTS FOR ADMISSIBILITY.

THE RECORD EVIDENCE SHOWS THAT THE COURTS
OF APPEALS / T.C.C.A. LOCALITY ART. 11.07 COURT
ENTERED FINDINGS THAT CONFLICT WITH THE 1ST
COURT OF APPEALS OWN PRECEDENT ON ISSUE.

AND CONFLICTS WITH ANOTHER COURT OF APP-
EALS OF TEXAS, PRECEDENT SET, IN RE TEX. A.G. 195
SW3d 264, 267 (TEX. APP. 4 DIST. 2006), REPORT MUST
BE IN COMPLIANCE WITH TEX. FAM. CODE §160.504.
SEE, ALSO L.J. v. TEX. DEPT. OF FAM. PRO. SERV. NO.
03-11-00435-W 2012 TEX. APP. LEXIS 6455 (TEX.
APP. 3RD DIST. 2012), CITING §160.504.

THE TEXAS APPEAL COURT DID NOT FAITHFULLY FOLLOW
OR APPLY SPECIFIC TEXT §160.503(a), §160.504(a)
SEE, TEX. FAM. CODE §160.103(b), 'BOYKIN, SUPRA.
THE TEX. COURT OF CRIM. APPEALS 11.07 COURT
OF LAST RESULT DID NOT FOLLOW OR APPLY THE
SPECIFIC TEXT, TEX. FAM. CODE §160.103(a), (b),
§160.504(a), 'SEE, BOYKIN, SUPRA.

THESE STATE COURTS DID NOT ADHERE TO STARE
DECISIS, SEE, TEX. FAM. CODE §160 SUPRA AND
ENL, STATE NO. 12 IS DEPRIVED OF GENETIC EVIDENCE, SEE
TEX. FAM. CODE §160.505(a), (1), (2). SEE JACKSON, 861
SUPRA, 'MANNICH, 3007-08 SUPRA,

IN RE TEX, A.G., 615, 'IN RE TEX, ATTY. GEN., 267, 'TEX,
A.G., INFO. MEMO #97-03, L.J., V. IDPS, SUPRA⁵.

THIS COURT STATED THAT IT IS NOT BOUND TO FOLLOW
OR ACCEPT ERRONEOUS CONCLUSIONS. SEE, HORN V.
U.S., 118 S. CT, 696 (1997) (1998). ENL2

SEE, LITTLE, STREATER, 101 S. CT, 2202, 2205-2207 (1981).
THIS COURT STATED THESE STANDARDS GOVERNS APP-
EALANT⁵ BUT PROCESS CLAIM, WHICH IS PRE-
MISED ON THE UNEQUAL QUALITY OF BLOOD GROUP-
ING TEST⁵ AS A SOURCE OF EXCLUSATORY EVI-
DENCE.

SEE, FLORENCE V. COX, #07-17-00000390-W ATT-
ACHED P. 7 N. 4, WHERE KEN, PAXTON THE RESPON-
DENT⁵ COUNSEL STATE⁵ TO A TEXAS APPEAL COURT IN
A UNRELATED CAUSE, THAT FLORENCE⁵ CRIMINAL
PATERNITY RESULTED IN HIS CIVIL PARENTAGE / ADI-
UNICATION.

SEE, F.R.E. 201 REQUEST ON FILE IN 10CR121783-10
ART. 11.07 IN THE T.C.C.A. / GALVESTON DIST. CLERK, THE
STATE IN IT⁵ REPLY AT P. 2 ADMITS THAT STATE⁵ #12 WAS
USED TO ESTABLISH FLORENCE⁵ PATERNITY CRIMINAL.

SEE, F.R.E. 201, ON 11.07 10CR1217-83-12 STATE⁵ 2019
REPLY ADMITS FLORENCE RAISE⁵ QUESTIONS OF LAW &

ENL2 SEE, MURKOCK V. MURKOCK 811 SW2d 557 (TEX, 1991),
[O]UR SUPREME COURT STATED LONG AGO THAT DNA PAT-
ERNITY TESTING MUST BE PROPERLY CONDUCTED IS SUB-
SUMED WITHIN THE EVIDENTIARY PREDICATE.

FACT, THE T.C.G.A. AGAIN FAILED TO FAITHFULLY FOLLOW SPECIFIC TEXT §160.103(a), (b) SUPRA. SEE, BOY-KIN, SUPRA.

SEE, MINNECH, 3008, SUPRA THIS COURT STATED A PATERNITY (CRIMINAL OR CIVIL) THUS IMPLICATES A PROPERTY AND LIBERTY INTERESTS OF THE DEFENDANT. ENL3

WHAT I WROTE OVER 35 YEARS AGO IS STILL TRUE "IN THE FIELD OF CONTESTED PATERNITY THE TRUTH IS OFTEN ABSURD BECAUSE OF SOCIAL PRESSURES, CREATES A CONSPIRACY OF SILENCE OR WORSE INDUCE DELIBERATE FALSITY."

SEE, IN RE TEX. DEPT. OF FAM. PRO. SERV., 210 SW3d 609 612 (TEX. 2006), IN CONSTRUCTING A STATUTE C+JO DETERMINE THE LEGISLATURE'S INTENT WE LOOK TO THE (STATUTORY) STATUTES PLAIN LANGUAGE AND THE COMMON MEANING OF THE STATUTE'S WORDS.

THIS COURT MUST APPLY THE PLAIN LANGUAGE OF TEX. FAM. CODES 160.103(a), (b), 160.503(a), 160.504(a), 160.505(a), (1), (2).

TO STATE #12, WHICH WAS INADMISSIBLE EVIDENCE SEE, IN RE A.G. TEX. 615, IN RE A.G. TEX. 267, LTV, IDPS, ENL3, SEE, BLACKS LAW DICTIONARY, 'PATERNITY TEST (1926), A TEST USU INVOLVING DNA IDENTIFICATION OR TISSUE-TYPING FOR DETERMINING WHETHER A GIVEN MAN IS THE BIOLOGICAL FATHER OF A PARTICULAR CHILD.

SEE TEX. FAM. CODES, §160.103(a), (b), §160.503(a), §160.505(a), (1), (2)

SUPRA: SEE, DR. RECK STAUB REVIEW OF STATE'S #12
IN APPX. FILED WITH COURT NO STATE OR LOWER FEDERAL
COURT APPLIED OR CONSIDER IN REVIEWING LOCKR17.

THE TECH AMY, SMUTS WAS NOT QUALIFIED TO CON-
DUCT PATERNITY AND ILLEGALLY CONDUCTED PATERNITY IN
FORENSICS, SEE, Id. STAUB REPORT.

SEE, 01-11-008220R 7-30-2013 JUDGMENT THE LOWER
STATE COURTS DID NOT APPLY DAUBERT V. MERRILL DOW
PHARMACEUTICALS IN THIS CASE.

SEE, APPX. B ATTACHED.

SEE, STAUB REPORT IN SUPPORT, SUPRA.

SEE, APPX. C, SCIENTIFICALLY ACCEPT PARENTAGE
TESTING, PURSUANT TO TEX. FAM. CODE 160.

SMUTS / U.N.I.T.H.S.C. FWT. REPORT / TESTING IN THEIR
FORENSIC LABORATORY HAS NOT GAINED WIDE SPREAD
ACCEPTANCE WITHIN THE SCIENTIFIC COMMUNITY.

TO CONDUCT PATERNITY TESTING / REPORTS IN THEIR
I.C.C.P. ART. 63 MISSING CHILDREN / PERSONS FORENSIC
IDENTIFICATION LABORATORY.

SEE, TEX. FAM. CODE 160, §160.103(a) THE LEGE-
SLATURE HAS LAYED OUT THE LAW: THIS CHAPTER
GOVERNS EVERY DETERMINATION OF PARENTAGE IN THIS
STATE. EN. 3

IN SUPPORT SEE, MR. RECK, STAUB REPORT THAT MS.
SMUTS OR MS. PLOPPER INDICATES ANY TRAINING IN
PATERNITY ON THEIR SUBMITTED CURRICULUM
VITAE.

EN. 3, §160.503(a), §160.504(a), §160.505(a), (1), (2) NOT
MET IN SAID DNA REPORT / CASE.

THIS SHOWS THAT THE TRIAL COURT AND APPELLATE STATE COURTS ERRORED IN THE DAUBERT STANDARD ISSUED BY THIS COURT PRIOR TO SUCH TESTIMONY / REPORT OF RESULTS BEING SUBMITTED INTO EVIDENCE.

SEE, JACKSON, 861, SUFFICIENCY OF THE EVIDENCE IS REVIEWABLE. ENL 4

SEE, BUCK, DIRECTOR, DAVIS, 580 US (2017), AS IN BUCK, AMY, SMUTS TESTIMONY / REPORT CLEARLY INFLUENCED THE SENTENCING JURY THAT STATE #12 LEGALLY AND LAWFULLY ADJUDICATED ME AS THIS CHILD'S BIOLOGICAL FATHER AND THAT SHE WAS A EXPERT IN THE PROPER ~~FIELD~~ FIELD TO CONDUCT CRIMINAL PATERNITY. ENL 5

SEE, HALL, DIRECTOR OF CORR, 343 F3d 976, 984 N.8 (9TH CIR, 2003), CITING EL-MULLER, DIRECTOR, 537 U.S. 322 (2003), THE AEDPA, ALTHOUGH EMPHASIZES PROPER AND DUE DILIGENCE TO STATE COURTS FINDINGS DID NOT ELIMINATE FEDERAL HABEAS REVIEW WHERE THERE ARE REAL CREDIBLE DOUBTS ABOUT THE VERACITY OF ESSENTIAL EVIDENCE AND THE PERSON WHO CREATED IT, AEDPA DOES NOT REQUIRE US TO TURN A BLIND EYE.

ENL 4, STATE V. HALL, 2019 TENN. LEXIS (2019) CITES JACKSON V. VIRGINIA.

ENL 5, SEE, SHUTEWHITE V. TEXAS, 486 US 249, 259 (1988) ©

THIS COURT MUST GRANT REHEARING, SEE, Id 984
N8.

SEE, APPX, FILED IN COURT A.M.G.' 12-2014 AFFI-
DAVIT WHERE SHE REVEALS THAT THE STATE USED
DURESS/THREATS TO OBTAIN HER DNA, SEE, IN
RE A.G. 195 SW 3d 265 N.2 SUPRIA, OBSERVING
THAT GENETIC TEST RESULTS WERE INADMISSIBLE
BECAUSE MOTHER DID NOT CONSENT TO GENETIC
TESTING, ENL 6

RESPECTFULLY, SUBMITTED, Thomas Thomas 5-28-2019
PRAYER: COURT GRANT REHEARING DUE TO SAID ISSUES
PRESENTED IN THE *CERTIFICATION IN RULE 44
MOTION REMAND TO FIFTH CIRCUIT OR TO STATE APP-
EAL COURT TO ADDRESS CONFLICT WITH OTHER
STATE APPEAL COURT/IT'S OWN PRECEDENT JULY 30,
2013. ALL PROPER READER OR DETERMINE THAT
FLORENCE IS NOT THE FATHER. [COLON 797 SUPRIA]

CERT. OF SERV. I THOMAS, FLORENCE CERTIFY THAT A TRUE
AND CORRECT COPY WAS SENT TO KEN, DAYTON P.O.,
BOX 12548 AUSTIN, TX. 78711 Thomas Thomas 5-28-19

I CERTIFY SAID PLEADINGS WAS DEPOSITED 5-28-19 IN UNIT LAW LIBRARY
INTEGRITY MAIL BOX 5-28-19 Thomas Thomas

I CERTIFY I'M PROSE AND NO ATTY, OF RECORD HAS
BEEN INVOLVED IN TREAT, LOCK 1217 OR 01-11-00822CR
DIRECT APPEAL OR ART. 11.07 LOCK 1217-83-10 -100RB1783-12
OR WERE Thomas Thomas 5-28-19

ENL 6, F.R.E. 201, AUGUST 6, 2011 GALVESTON DAILY NEWS PAPER
FRONT PAGE, A.M.G. SKIPPED TRIAL / WENT TO JAIL / WAS
FINED.

SEE, HER AFFIDAVIT IN APPX, ON FILE IN COURT - @
WITH CERT.

RULE 44 CERTIFICATION

I PETITIONER THOMAS, FLORENCE CERTIFY THAT
SAID PETITION MOTION IS BEING FILED IN GOOD
FAITH / NOT FOR DELAY.

I CERTIFY THAT SAID ISSUE GROUNDS THAT'S BEING
FILED ARE LIMITED TO INTERVENING CIRCUMSTANCES
THAT MEETS REVIEW BY THIS COURT ONCE PLEAD-
INGS / APPX.'S IN THIS CASE ARE LIBERALLY CON-
STRUED, AND ISSUES OR OF SUBSTANTIAL OR
CONTROLLING EFFECT OR TO OTHER SUBSTANTIAL GRO-
UNDS NOT PREVIOUSLY PRESENTED.

PETITIONER IS UNREPRESENTED BY COUNSEL

Shelma 5-28-19

