

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

THOMAS, FLORENCE PETITIONER
(Your Name)

TOY DIR. LOU DAVIS vs. RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

5th CIRCUIT COURT OF APPEALS
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

THOMAS, FLORENCE
(Your Name)

2601 Fry 369 N.
(Address)

LOWRY PARK TX. 76367
(City, State, Zip Code)

(940) 955-7477
(Phone Number)

QUESTION(S) PRESENTED

CAN THE STATES OF THE UNITED STATES OBTAIN
A VALID CONVICTION BASED ON A
DNA REPORT THAT DOES NOT PROVE BE-
YOND A REASONABLE DOUBT TO SUP-
PORT ADJUDICATION OF PARENTAGE TO
SECURE TO YR. PRISON SENTENCE ?
[SUFFICIENCY OF THE EVIDENCE]

DID THE LOWER COURT WRONGFULLY
APPLY PROCEDURAL BAR TO VAL-
ID SUFFICIENCY OF THE EVIDENCE
CHALLENGING VALIDITY OF CONVIC-
ION ? [EVIDENCE OBTAINED DURING APPEAL]

DID THE LOWER APPEAL COURT ERROR
IN C.O.A. DENIAL OF CLEAR CONSTITUT-
IONAL ERRORS, REGARDING DOCK 12 17
WRONGFUL CONVICTION NOT OBTAINED
BEYOND A REASONABLE DOUBT ?

DOES THIS COURT HAS JURISDICTION ~~TO~~ UNDER 28
U.S.C. §1257 (2) TO MAKE A DETERMINATION
THAT A DEFENDANT IS NOT THE CHILD'S BIOLOGICAL
FATHER ?
TRUE

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:

THOMAS, FLORENCE

TRCT DIRECTOR LORE DAVES

OTHER PARTIES

TRIAL JUDGE LONNIE COX

1ST COURT OF APPEALS, KEYES, BLAND, HIGLEY
T.C. CRIM. APP. 11, 07'S

N.D. TEX. FED. COURT, MIST. HON. RAY
5TH CIRCUIT JAMES, GRAVES

ATTORNEY GENERAL / DIRECTOR WAS NEVER
ORDERED TO RESPOND TO APPX.C.

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L^s, LITTLE v. STREATER, 101 S. CT. 2202, 2205, 2207 (1981) —, 5V, 5W

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§ 28 U.S.C. 1257 (a)

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§ 28 U.S.C. 2244 (b), (a), (3) (2000)

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* § 160.503 (a), (1) —, 5D, 5F, 5K, 5W, 5X

* § 160.504 (a), (b) —, 5E, 5F, 5G, 5K, 5W, 5X

* § 160.505 (a), (1), (2) —, 5F, 5G, 5K, 5W, 5X

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TEXAS ATTORNEY GENERAL INFORMATION AND MEMORANDUM

NUMBER DM 97-03 APRIL 10, 1997) — ~~OO~~ RULES

— AT APPX. N

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 White Card in state Court; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

The opinion of the 1st Court Of Appeals court appears at Appendix E 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 8, 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 June 2017
A copy of that decision appears at Appendix _____. White CARB IN ST. CT.

☐ A timely petition for rehearing was thereafter denied on the following date: NOT DENIED, 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

U.S.C.A., 14

28 U.S.C. § 2244 (b), (2), (A), (b), (2), (C) (2000)

28 U.S.C. § 2244 (b), (2), (B) (2000)

28 U.S.C. § 2254 (2), (1)

28 U.S.C. § 2254

28 U.S.C. § 2254 (d), (1)

28 U.S.C. § 2253 (c), (2)

28 U.S.C. 1257 (a)

O'CONNOR TEXAS FAMILY CODE § 160 (2011)

* § 160.103 (a), (b). *

§ 160.503 (a) (1)

§ 160.504 (a) (b)

§ 160.505 (a), (1), (2)

T.C.C.P. ART. 1.04

STATEMENT OF THE CASE

THOMAS, FLORENCE, PETITIONER, WAS CHARGED AND CONVICTED OF IMPREGNATING A 16 YEAR OLD MINOR AMIBOR MARIE GUARNEL, WHO DELIVERED HIS CHILD JADA MARIE GUARNEL, BORN ON OCTOBER 22, 2010 AT U.T.M.B. IN GAINESVILLE TEXAS.

THE STATE OF TEXAS PRESENTED IT'S CHIEF EVIDENCE STATE'S NO. 12 DON FORANSEE [NON PATERNITY] REPORT TO THE JURY AND LOWER STATE AND FEDERAL COURT, ARGUING THAT I WAS CONVICTED / ADJUDICATED BEYOND A REASONABLE DOUBT AS BEING JIM G.'S BIOLOGICAL FATHER AND SENTENCED TO [LIFE] 20 YRS IMPRISONMENT. STATE'S NO. 12 AT APPX. F. SEE, APPX. E.

PETITIONER, APPEAL DIRECT 01-11-00822CR, SUFFICIENCY OF THE EVIDENCE AND OTHER ERRORS OF CONSTITUTIONAL RELEVANCE.

SAID APPEAL WAS AFFIRMED. PETITIONER FILED LO ART. 11.07'S LOCK 1217-83-1 BEFORE CONVICTION NEVER ACTED ON.

LOCK 1217-83-9 thru 10 WAS DENIED OR DISMISSED.

§ 2254 #'S G-12-CW-25, WAS NEVER RULED ON OR ACTED ON, ON THE MERITS S.C.T. # 16-6673.

G-14-CW-376 WAS DENIED, # 16-40615 5TH CIRCUIT NUMBER.

* NO FEDERAL COURT HAS RULED ON THE MERITS

OR VALIDITY REGARDING THE SUFFICIENCY
OF THE CHIEF EVIDENCE STATE'S NO. 12 APPX.F
USED TO SECURE PETITIONER'S CONVICTION.

THE STATE COURT / APPEAL COURT # 01-11-00
8224K, WRONGFULLY AFFIRMED CONVIC-
TION BASED SOLELY ON PROBABILITY AND NO
GENETIC EVIDENCE.

STATE'S NO. 12, APPX.F, IS / WAS OF NO LEGAL EFF-
ECT IN THE STATE OF TEXAS, [§160.103, (a), (b)]
TO ADJUDICATE PARENTAGE AS A MATTER OF
— LAW. APPX.'S G, H, I, M, N, O, P. OR PROVE
PARENTAGE / CONVICTION BEYOND A REASON-
ABLE DOUBT. [APPX.F].

REASONS FOR GRANTING THE PETITION

THIS COURT CLEARLY ESTABLISHED LAW AND PRECEDENT STATE^s THAT A DEFENDANT MUST BE FOUND GUILTY BEYOND A REASONABLE DOUBT, WITHOUT RELYING, ON PRESUMPTIONS MATTERS OR UNTRUE OR UNRELIABLE INFORMATION. TOWNSEND V. BURKE, 334 U.S. 730, 740-741 (1948); MELENDEZ-DIAS V. MASS. 129 S. CT. 2525, 2548-49 (2009).

RULE 10 (a), (b), (c), APPLIES TO THIS WRIT FOR REVIEW, TO PREVENT A MISCHANCE OF JUSTICE. JACKSON V. VIRGINIA 443 U.S. 307, 315 (1979)

THIS COURT CLEARLY ESTABLISHED LAW, STATED IN JACKSON V. VIRGINIA, 443 U.S. 307, 318 (1979) THAT JACKSON, IS THE CASE THAT COMES CLOSE TO AUTHORIZING EVIDENTIARY REVIEW OF A STATE COURT(S) CONVICTION ON FEDERAL HABEAS CORPUS AS ANY OF OUR CASES, CITED IN HERRA V. COLLINS 113 S. CT. 853, 861, 877, 883 (1993). MURDOCK V. MURDOCK, 811 SW2D 557 (TEX. 1991).

THIS COURT IN JACKSON, AT 318, STATED THERE WE HELD THAT A FEDERAL COURT ON 2254 REVIEW MAY REVIEW A CLAIM THAT THE EVIDENCE [STATE NO. 12 APPX.'S F.G.H.I.] ADDUCED AT A STATE TRIAL, [10CR1217/01-11-008222CR]

WAS NOT SUFFICIENT TO CONVICT A DE-
FENDANT BEYOND A REASONABLE
DOUBT JACKSON, 'MEUNDEZ-DIAZ,
SUPRA.' SEE, 'MURKOCK SUPRA'
THE COURT CLEARLY ESTABLISHED LAW JACK-
SON, 318, STATE'S SUFFICIENCY OF THE EVID-
ENCE REVIEWS AUTHORIZED BY JACKSON
IS LIMITED TO THE RECORD EVIDENCE.
SEE, APPX.F, APPX.H AND ATTACHMENT'S ARE
RECORD EVIDENCE.

THEREFORE UNDER SUPREME COURT CLEARLY
ESTABLISHED LAW THIS COURT REMAND
FOR C.O.A. TO WITH STATE'S NO. 12, APPX.F.

QUESTION #1, CAN THE STATES OF THE UNITED
STATES OBTAIN VALID CONVICTIONS BASED ON A
DNA REPORT THAT DOES NOT PROVE BEYOND
~~TO SURE~~ A REASONABLE DOUBT TO SUPPORT
A ADJUDICATION OF PARENTAGE TO SECURE
A PRISON CONVICTION?

UNDER JACKSON, 318, SUPRA THIS COURT CAN
NOW CONDUCT A EVIDENTIARY REVIEW OF
STATE'S NO. 12, APPX.F, USED TO SECURE PETIT-
IONER'S CONVICTION THAT RESULTED IN

HIS WRONGFUL ADJUDICATION OF PARENTAGE
WHICH RESULTED IN HIS WRONGFUL CONVIC-
TION. MURKOCK, SUPRA.

STATE N.12, APPX.E, WAS / IS NOT SUFFICIENT
UNDER APPLICABLE STATE OR FEDERAL LAW
TO BE USED TO SHOW / PROVE PETITIONER
IS THE BIOLOGICAL FATHER OF A JADA MARIE
GUARNERO BORN OCTOBER 22, 2010. FN.1
SEE, MURKOCK, 113 S.C. AT 861, 883; JACKSON,
315, 318 SUPRA.

SEE, ALSO CLEARLY ESTABLISHED FEDERAL LAW
WHITLEY v. SAWYER, 505 U.S. 333 (1992), TO
AVOID A MISCHANCE OF JUSTICE REQUIRES
A SHOWING BY CLEAR / CONVINCING EVIDENCE
BUT FOR THE CONSTITUTIONAL ERROR NO REAS-
ONABLE JUROR WOULD HAVE FOUND THE
DEFENDANT GUILTY UNDER APPLICABLE STATE-
LAW.

NO FAIRMENDED OR REASONABLE JUROR WOULD
NOT HAVE FOUND FLORENCE GUILTY BEYOND A
REASONABLE DOUBT HAD THE JURY BEEN ALLOWED
TO SEE, APPX.G, TO REBUT APPX.E.

UNDER APPLICABLE STATE LAW TEXAS LEGISLA-
TURE HAS ESTABLISHED, IN TEXAS FAMILY CODE,
ENL, LOCKRAT / 01-110082222 R.R. VOL. 4.16-17, 4.42
5.119

§160, THAT ALL DETERMINATIONS OF PARENTAGE
IN THIS STATE IS GOVERN BY TEX. FAM. CODES,
§160.103 (a), (b).

SEE, APPX'S, AL, §160.503 (a), (1) 'CITING GENETIC
TESTING (2011), 'NCCUSL ~~100~~ COMMENTS, CITING
TEX. ATT. GENERAL INFO. / MEMO. # JM 97.03
APRIL 10, 1997.

SEE, STATE'S NO. 12, APPX. F, 'SEE, APPX. E, 01-11-
00822CR, 7-30-2013 OPINION. ~~00822CR, 7-30-2013~~
ISSUES, AND THE COURT ERRONEOUS CON-
CLUSIONS OF LAW THAT §160.503 (a), (1),
APPX. H P. 2 CITING AAB3B, SUPRA WAS
IRRELEVANT.

THE LOWER STATE COURT MAKE A MATERIAL
GRAVE STRUCTURAL ERROR BY STATING §160.503
(a), (1), WAS IRRELEVANT.

THIS WAS A CLEAR VALID CHALLENGE TO THE
SUFFICIENCY OF THE STATE'S CHIEF EVIDENCE TO STATE
TO THE PUBLIC [GHA, DAILY NEWS PAPER 8-6-2011]

AND COURTS, 10CR1217, '01-11-00822CR, 'G-12-W-25
S.C.T. NO. 16-0073, 'G-14-W-376, '16-40615, '10CR1217-83-
2 THRU 10 ART. 11.07 COURTS, THAT STATE'S NO. 12
APPX. F, SHOWED BEYOND A REASONABLE DOUBT
THAT I WAS J.M.G.'S BIOLOGICAL FATHER, APPX'S G, 'H'
APPX. I, 'APPX. J-K4, 'APPX. L1-L4, 'SEE, APPLICABLE
STATE LAW, APPX. O, CITING §160.505 / NCCUSL COM-
MENTS.

SEE, JACKSON SUPRA, 'SAWYER / MELLENDEZ-DIAZ
SUPRA'

GUIDE TO LEGISLATION
411 SW3d 445, 451 (TE)

ALSO SEE, BOYKIN v. STA
(TEX. CRIM. APP. 1991), IN
OF LEGISLATIVE INTENT

TEX. LEGISLATIVE, IN
TO ASSURE THAT A C
BEING CHARGED A
ING A BIOLOGICAL P.
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DICATED UNDER CHAK
TO PROVIDE BUT PR
ADJUDICATED AS A T
ENT, U.S.C.A. 14, '01
§160.504(a), (b), §160.
M.N.O.

SEE, IN RE UTAS, 130
THE TEXAS COURTS HAS
NOW PROVIDES GUIDA
TO DETERMINE PAR

V. EX REL. C.M.N. V. ESTATE
640, 646-467, 650, FULL
SEE ALSO, IN RE ESTATE

EN.3, TEX. FAM. CODE, 160, 160.
§160.504(a), (b), §160.5

STATE'S NO. 12, APPX.E, DOES NOT CONTAIN ANY
GENETIC PATERNITY DNA EVIDENCE TO ADJUD-
ICATE / CONVICT PETITIONER BEYOND A
REASONABLE DOUBT THAT HE'S STATE'S NO. 1 J.M.G.
BIOLOGICAL FATHER, SEE, APPX.G, H.I.O. EN.2

SEE, IN THE INTEREST OF S.R.M. 888 SW2d 267
TEX. APP. HOUSTON 1ST DIST. 1994), HELD PUTATIVE
FATHER DID NOT PRESENT SUFFICIENT-EVI-
DENCE / RECORD TO SHOW ERROR WITH RESP-
ECT TO HIS CLAIM THAT THE STATE COURTS/
LOWER FEDERAL COURTS IMPROPERLY ADMITTED/
USED

UNVERIFIED DNA TESTS RE-
SULTS TO ESTABLISH PATERNITY / CONVICT THE
PETITIONER AS BEING J.M.G. BIOLOGICAL FATHER
TO STATE I COMMITTED STATUTORY RAPE.
SEE, STATE'S NO. 12, APPX.E, SEE, APPX.O, CITING
§160.504(a). FLORENCE, CHALLENGED SUCH.

SEE, IN RE ATTY. GEN. OF TEXAS, 195 SW3d 264, 267
(TEX. APP. WACO 2006), LABORATORY RESULTS AND RE-
PORT TO BE IN COMPLIANCE WITH, FAM. §160.504.
STATE'S NO. 12 IS NULL / VOID / INSUFFICIENT
EVIDENCE.

THIS COURT MUST USE THE STATE OF TEXAS
PUTIN LANGUAGE WHICH IS THE SIMPLEST
* EN.2 SEE, IN RE SCV, 750 SW2d 762, 764 (TEX. 1988),
DNA TESTS MUST BE PROPERLY CONDUCTED,
U.S.C.A. 14, 'T.C.G.A. ART. 1.04.
SE

2013 TEXAS APP. LEXIS 10863 (TEX. APP. 3RD 2013), CITING §160.504, §160.505.

SEE KUSHING v. KANSAS CITY S. RY. 185 F3d 496, 507 (FIFTH CIR. 1999), THE COURT HELD

WHEN APPLICABLE LAW, [§160.503

(a), (b), §160.103 (a), (b), §160.504 (a), (b),

§160.505 (a), (1), (2)] MANDATES USE

OF PARTICULAR TESTING PROponent SHOULD NOT

HAVE TO ESTABLISH IT'S RELIABILITY INSTEAD IT'S

RELIABILITY SHOULD BE PRESUMABLY PRES-

SUMED.

2254 (d) (1), 2253 (c) (2), 2254 (c) (1),

WARRANT'S REVIEW BY THIS COURT DUE TO

BEING OF GREAT CRIMINAL JUSTICE IMP-

ORTANCE, BEING THE STATE'S TO THEIR DUTY

TO PROVE IT'S CASE BEYOND A REASONABLE

DOUBT, DUE TO DNA REPORTS / TESTIMONY RE-

GARDING THE SUFFICIENCY OF THE EVID-

ENCE IN THESE TIMES BEING USED TO

PROVE GUILT OR INNOCENCE.

IS IMPORTANT TO CRIMINAL JUSTICE, DUE

TO SAID ISSUES NOT BEING ADDRESSED

BY THE LOWER STATE OR FEDERAL COURTS

SEE APPX: A, B, E.

SEE HOMN v. U.S. 118 S. CT. 1969, 1971 (1997),

STATE DECISIONS BE REFERRED TO.

THE PETITIONER HAS ESTABLISHED THAT THE WRIT OF HABEAS CORPUS SHOULD BE GRANTED THE STATE COURT'S DECISION WAS CONTRARY TO AND INVOLVED AN UNREASONABLE APPLICATION OF CLEARLY FEDERAL AS DETERMINED BY THE SUPREME COURT, 28 U.S.C. § 2254 (d), (1).

~~REASONABLE~~ FAIR MINDED JURIST COULD DISAGREE ON THE CORRECTNESS OF THE STATE COURT'S DECISION, HARRINGTON V. KITCHER, 562 U.S. 86, 101 (2011), CITING YARBOROUGH V. ALVARADO, 541 U.S. 652, 664 (2004).

THE PETITIONER HAS SHOWN THAT THE STATE COURT DECISION IS SO LACKING IN JUSTIFICATION THAT THERE WAS AN ERROR WELL UNDERSTOOD, [STATE'S NO. 12, APPX. F, G, H, I, J, K, L, M, N, O, P] AND COMPREHENDED IN EXISTING LAW BEYOND ANY POSSIBILITY FOR FAIR MINDED DISAGREEMENT, WHITE V. WOODALL 572 U.S. __, __ (2014).

QUESTION NO. 2, DID THE LOWER COURT(S) WRONGFULLY APPLY PROCEDURAL BAR TO VALID SUFFICIENCY OF THE EVIDENCE ~~CONVICTING~~ CHALLENGING VALIDITY OF [CLOCKBIT] CONVICTION WITH STATE'S NO. 12 / STATE'S #1?

(SEE, EX PARTE GHAKAMIANI, 332 SW 3d 470-471 (TEX. CRIM. APP. 2011), IT VIOLATES OUR PROCESS TO GIVE A JURY / COURTS THE FALSE IMPRESSION OF EVIDENCE USED TO PROSECUTE.

SEE, AP
COMBINE
UNDER
REASON
ETHER
ORAD I
PENID.
WITH
THE OUT
COURT
STATED (
PAL TO
LI-L4,
BIRTH U
EST H
HMS NO I
WITH K
OF MET
FLORENCE
MILL
IF NOT F
WOULD
ENL5, SET
ALIGH
SURE

THE JURY [COURTS] TO TRUST THE GOV-
ERNMENT'S JUDGMENT RATHER THAN IT'S OWN
VIEW OF THE EVIDENCE, STATE'S NO. 12.
APPX. F. / APPX. G-P. ENL 4
NO STATE OR FEDERAL FAIR MINDED JURIST
FOR 8 YEARS NOW HAS NOT ~~CONSIDERED~~ ON IT'S OWN.
REVIEWED THIS EVIDENCE, STATE'S NO. 12, APPX. F /
APPX. H, M, N, O, P. SEE, STATES V. YOUNG, 18-19 Id.
SEE, IN RE WILLIAMS, 330 F3d 277, 283 (4TH
CIR. 2003), CONSTITUTIONAL ERROR PRONG OF §
2244 (b), (2)(B), SATISFIED WHERE PETITE-
DNER ALLEGED PROSECUTORIAL MISCONDUCT
IN VIOLATION OF DUE PROCESS.
28 U.S.C. 2244 (b), (2), (B), (2000), SATISFIED
WHERE NEWLY OBTAINED/ DEVELOPED EVIDENCE
STATISTICAL JUSTIFIED NEW CLAIM VIOLATION
OF U.S.C.A. 14. APPX. LI-L4, APPX. I.
~~THE~~ THIS COURT MUST BE MINDFUL THAT
NO FINAL DENIAL OF 2254 RELIEF
HMS NOT YET OCCURRED WHEN APPX. C WAS
FILED.
ENL 4, SEE, § 2254 (c), (1), GREENISH V. DIR. CORP. 990 F2d
730, 736 (3RD CIR. 1993), THE PREPONDERANCE OF
IS EVIDENCE [APPX. G-P] WHICH IS MORE CONVIN-
CING THAN THE EVIDENCE OFFERED IN OPPOSITION TO IT.

SEE, APPX. B THE COURT STATES THAT IT WAS WITHOUT JURISDICTION TO ENTERTAIN WRIT BECAUSE IT WAS A SECOND OR SUCCESSIVE 2254.

THIS WAS STRUCTURAL ERROR, SEE, GLEBE V. FROST 574 U.S. ____ (2014), ONLY THE THREE TYPE OF ERROR - IN GENERAL, ONE THAT INFECTS THE ENTIRE TRIAL PROCESS AND NECESSARILY RENDERS IT FUNDAMENTALLY UNFAIR REQUIRES AUTOMATIC REVERSAL.

THE COURT STATED THAT PREVENTING A DEFENDANT FROM ARGUING A LEGITIMATE DEFENSE THEORY CONSTITUTE STRUCTURAL ERROR.

APPX. LI-4 WAS DISCOVERED DURING 16-40615 APPEAL SAID 2254 G-14-W-376 WAS NOT YET FINAL BECAUSE THE 5TH CIRCUIT HAD NOT YET ISSUED A

FINAL JUDGMENT, AS ADMITTED IN APPX. A P2, APPX. LI-L4, SUPPORTED BY APPX. J-K4, CLEARLY RAISES A DEFENSE THEORY / ACTUAL INNOCENCE CLAIM HOW COULD PETITION BE THE FATHER OF A GHOST CHILD THAT DON'T EXIST / APPX. E CLEARLY WOULD BE FALSE / FABRICATED / INSUFFICIENT EVIDENCE TO SUSTAIN ADJUDICATION OF PARRANAGE / LOCKBIT CONVICTION. IN RE WILLIAMS SUPRA.

SEE, COLUMAN V. SATLE 916 F2d 1217, 1219 (10TH CIR. 1990) (PERCURIUM) EVIDENCE OBTAINED DURING APPEAL OR SECOND PETITION JUSTIFIED (NEW TRIAL) COMP-

ENTANCY CLAIMS IN 3RD PETITION BECAUSE NEITHER PETITIONER OR COUNSEL PREVIOUSLY KNEW THAT RECORDS EXISTED.

THIS WAS/IS SUCH A CASE, PETITIONER KEPT ASKING THE TRIAL JUDGE LONNIE COX TO ORDER THE STATE TO ~~TO~~ TURN OVER J.M.G. BORN 10-22-10, BIRTH CERTIFICATE DURING PRETRIAL/TRIAL AND EVERY TIME BENCH CONF. OFF RECORD TOOK PLACE, OR I WAS CALLED OVER TO JUDGE'S COURT WITH NO COURT REPORTER EACH TIME THE 3A.D.A.' KEPT SAYING ALONG WITH THE JUDGE / THE SIT-IN LAWYER WELL A BIRTH CERTIFICATE IS IRRELEVANT WE HAVE A D.N.A. REPORT STATE'S NO. 12

APPX. F STATING J.M.G. STATE'S NO. 1 IS HIS BABY. APPX. LI-L4, WAS DISCOVERED DURING 1640615

APPEAL, THEREFORE SAID APPX A/C WAS NOT CONSIDERED A SECOND OR SUCCESSIVE PETITION BECAUSE THE 5TH CIRCUIT HAD NOT YET RULLED G-14-CN-376 WRITS, SEE, APPX. ~~A~~ P. 2, WHERE THE 5TH CIRCUIT ACKNOWLEDGES, IT'S CLEAR STRUCTURAL ERROR, IN IGNORING APPX. LI-L4, ALSO SENT TO 16-40015 BEFORE RULING, SEE, GLYBE V. FROST, SUPRA.

I WAS DENIED FROM PRESENTING APPX. LI-L4 ARGUING A ~~LEGITIMATE~~ LEGITIMATE DEFENSE [SEE, E.P.C. 201, GHAUSTON DAILY NEWS PAPER AUGUST 6, 2011, ~~HOW CAN NULL~~ HOW CAN NULL/

VOID APPX.F, STATE'S #12, STATE I'M THE BIOLOGICAL
FATHER OF J.M.G. D.O.B. 10-22-10. STATE'S NO. 12 EN.G
HAD ANY JUROR KNOWN J.M.G. WAS AN ILLUSION,
GHOST CHILD, FAKE / FALSE / INADMISSIBLE EVIDENCE
APPX. L1-L4 TESTIMONY, COMBINED WITH PRO-
SE DEFENDANT'S OPENING / CLOSING ARGUMENTS,
AND TRIAL ARGUMENTS IT WAS IMPOSSIBLE FOR
THE STATE THEN TO PROVE THEIR CASE BEYOND A
REASONABLE DOUBT, BECAUSE A REASONABLE
JUROR WOULD OF STATED IF NO BIRTH CERTIFICATE
EXISTS THEN THIS CHILD IS QUESTIONABLE / THEN
PETITIONER OR JUROR WOULD OF STATED PRODUCE
J.M.G. BORN 10-22-10, WHO'S A WITNESS. SEE, ~~LOC 1217~~
~~STATE'S 5-7, AMENDED WITNESS LISTS~~
BY THE STATE SUPPRESSION OF ~~BRADY J. MARY-~~
LAND, 373, US 83, 87, (1963), THAT J.M.G. WAS A GHOST-
CHILD / ILLUSION, ALTERED THE OUTCOME OF THIS,
TRIAL.

THESE CLEAR CONSTITUTIONAL VIOLATIONS, UNDER
CLEARLY ESTABLISHED SUPREME COURT / STATE / FEDERAL
LAW DENIED PETITIONER A FAIR TRIAL AS MAND-
ATED BY THE CONSTITUTION, U.S.C.A. 1, 14, IF NOT FOR
SUPRIA CONSTITUTIONAL VIOLATIONS NO FAIR-MIND-
JURIST WOULD NOT HAVE FOUND FLORENCE GUILTY
BEYOND A REASONABLE DOUBT, MELANDEZ-VIAS,
SUPRIA *COURT JUSTICES GRANT NEW TRIAL *
EN.G, ~~SEE~~ GPD #2010-13986 J.M.G. BORN 10-22-10 WAS
DIRECT EVIDENCE TO CONVICT ME AS ~~BEING~~ BEING
MY FATHER, BUT [SUPPRESSED GHOST CHILD] APPX. L1-
L4, STATE'S SMC'S AN ILLUM SP ALDEN, DON'T EXISTS.

QUESTION NO. 3, DID THE LOWER COURTS ERROR IN DENIAL OF C.O.A. RELATED TO CLEAR CONSTITUTIONAL ERRORS, REGARDING 10CR1217

WRONGFUL CONVICTION NOT OBTAINED BEYOND A REASONABLE DOUBT?

SEE, GLEBE, v. FROST, 574 U.S. ____ (2014), A 9TH CIRCUIT CASE, WHERE THE COURT HAD STATED THAT THE COURT RELIEVED THE STATE OF ITS BURDEN, OF PROVING GUILT BEYOND A REASONABLE DOUBT, SHIFTED THE BURDEN OF PROOF TO FROST [FLORENCE].

THIS IS WHAT THE LOWER COURTS IN REVIEWING 10CR1217, WRONGFUL CONVICTION, WRONGFUL ADJUDICATION OF PARENTAGE, WITH FALSE AND INSUFFICIENT / INADMISSIBLE EVIDENCE, WHICH IS CLEARLY SUPPORTED BY RECORD EVIDENCE UNDER JACKSON, 315, 318, THAT THE STATE FAILED TO PROVE ITS CASE BEYOND A REASONABLE DOUBT, MELNDEZ-BENAS, SUPRA.

THIS COURT IN HORN v. U.S., 118 S. CT. 1969, (1998) HELD THAT THIS COURT HAS JURISDICTION TO REVIEW THE DENIAL OF C.O.A.

PETITIONER, MORE THE JUSTICES / LAW CLERKS TO REVIEW DENIAL OF C.O.A. / REVIEW RECORD EVIDENCE BECAUSE REASONABLE MINDS COULD DISAGREE WITH THE ERRONEOUS ASSESSMENTS / REVIEWING

ENL, A HABEAS ACTION CHALLENGE
NOT A CRIMINAL ACTION.

THE TEXAS SUPREME COURT
WRT'S HAS HELD THE SAN
DEPARTMENT OF HUMAN RESOU
RADA 620 SW2d 805 (TEX. APP. 11
A PATERNITY ACTION IN TEX
ENL 8.

* SEE, ~~REDACTED~~, FLORENCE V. S
(TEX. APP. AMARILLO 2018), TO
FEBRUARY 28, 2018 REPLY AT
A.A.G. JOHN MERCUTTE, FLORE
00822CR, RESULTED IN HIS
OF PARENTAGE.

* THIS COURT HAS JURISDICTION
12, APPX. F, SEE, CONNOR V. HECKE
5TH CIR. 1983), CITED IN TEXAS
NEK, 2011-2012 P. 306, A
MAKE A DETERMINATION OF
THE LOWER STATE LOWER FE
TO VOID STATE NO. 12, APPX. F W
EFFECT AS A MATTER OF LAW I
PETITIONER AS J.M.G. "BIOLOGICAL
70 YR DEATH PRISON SENTENC

ENL 8, FIRST COURT OF APPEALS SEE
SAME BUILDING, SEE, APPX. E,
ISSUE, Id. E. ~~REDACTED~~ 5T

PETITIONER'S CONSTITUTIONAL CLAIMS CITED FROM
STATE COURTS TO LOWER FEDERAL COURT.

IN 1911 THIS COURT STATED ALL COURTS MUST
ADHERE TO CLEARLY ESTABLISHED LAW AND THAT
THIS COURT UNDER STATE DECISIONS, DOES NOT ADH-
ERE TO ERRONEOUS FINDINGS BY A LOWER COURT.

THE RECORD LOC 1217, 01-11-00822CR / 6-14-376-W/
7.17-10939 RECORD EVIDENCE, SHOWS PETITIONER
WRT SHOULD BE GRANTED AND THE STATE ATTORNEY
GENERAL BE ORDER TO BRIEF ~~THE~~ THE SUFFICIENCY/
VALIDITY OF APPX. F. STATE NO. 12 BECAUSE

NO COURT
IN THE REVIEWING ADDRESSED THIS ISSUE NO HAS ANY
STATE RESPONDENT IN 8 YRS FIGHTING OF THIS CASE
HAS ANY ONE RESPONDED TO OR ADDRESSED DOES
APPX. F. STATE NO. 12, COMPLY WITH TEX. FAM. CODES,
§160.103 (a), (b), §160.503 (a), (b), §160.504 (a), (b), §160.
505 (a), (1), (2), ENG

THIS COURT NOW HAS JURISDICTION TO ADDRESS
THE VALIDITY / SUFFICIENCY OF APPX. F.
AND DENIAL OF C.O.A. [SEE, 16-6673 PENDING
REHEARING MOTION].

THE LOWER FEDERAL COURT'S DID NOT LIBERALLY,
CONSTRUCT PETITIONER'S CONSTITUTIONAL CLAIMS / EVID-
ENCE, 11-14, 'P, OBTAINED DURING APPELLATE REVIEW.

THIS COURT'S CLEARLY ESTABLISHED FEDERAL LAW,
MAINES V. KERNER, 404 U.S. 519 520-21 (1972), PRO-
ENG, SEE, APPX. G, H, I, M, N, O, P, SEE, GREENE SH 736
SUPRA, [§2254 (2), (1)] 5R

PETITIONER, MET 2254 (2), (1), BY PRODUCING/
AND DIRECTING THE LOWER STATE/FEDERAL COURTS
TO RECORD EVIDENCE FILED IN G-12-CV-25, G-14-CV-
376, 1640015 STATE COURT RECORDS FILED BY TEXAS
ATTORNEY GENERAL KEN PAXTON/OFFICE, SEE, JACK-
SON, 315, 318, SUPRA. THIS COURT CLEARLY EST-
ABLISHED FEDERAL SUPREMACY COURT CHALLENGE,
~~AND~~ ALLOWS FOR WRIT OF CERT. REVIEW.

REGARDING, APPX. F, STATE #12, WHICH WAS/ STILL IS
NOT SUFFICIENT AFTER 8 YEARS USED A MY STATE TRIAL
TO CONVICT PETITIONER, SEE, APPX. F, G, H, I, J-L4.
SEE, JACKSON, ~~315~~, 315, THE GOVERNMENT BEARS
THE BURDEN OF PROVING THE DEFENDANT,
GUILTY BEYOND A REASONABLE DOUBT.
STATE #12/APPX. F. IS NOT SUFFICIENT TO CONVICT
PETITIONER BEYOND A REASONABLE DOUBT, Id.,
315-318.

THE COURT FOR 5TH CIRCUIT, MADE CLEAR
STRUCTURAL ERROR IN DENIAL OF C.O.A. BY NOT
APPLYING A MAJORS, 520-521 REVIEW, OF CLEAR
CONSTITUTIONAL CLAIMS, THAT IS ~~IS~~ RIPE TO PROC-
EED FURTHER.

~~THIS~~ THIS COURT HAS REMANDED CASE'S BASED ON THE 5TH
CIRCUIT DEPARTURE FROM § 2253 AND FOR NOT
PROPERLY CONDUCTING C.O.A. REVIEWS, BUCK v
DAVIS, 580 US — (2017).

THIS COURT DOES NOT ADHERE TO ERRONEOUS CONCLUSIONS
MOON, 1971, SUPRA.

*QUESTION NO. 4, DOES THIS COURT HAS JURISDICTION UNDER 28 U.S.C. § 2257(a) TO MAKE A DETERMINATION THAT A DEFENDANT IS NOT THE CHILD'S TRUE BIOLOGICAL FATHER? [SEE APPX.F]

SEE APPX.B.RL THE FEDERAL § 2254 PROCEEDINGS, ARE CIVIL PROCEEDINGS AND UNDER TEXAS APPLICABLE LAW FAMILY PARENTAGE PROCEEDINGS ARE CIVIL PROCEEDINGS WHICH THIS COURT IS WITH JURISDICTION OF LAST RESULT, TO STATE THAT A PARENT MALE OR FEMALE IS THE TRUE BIOLOGICAL PARENT, TO FIND A PARENT GUILTY OF BEING THE CHILD'S BIOLOGICAL PARENT. ENJO [SEE MARTINEZ, SUPRA]

SEE, APPX.F, STATE NO. 12, 'SEE, APPX.G, H, I, M, N, O, P.

~~SEE, CONLON, 797, SUPRA CITED IN THE FAMILY LAW BOOK O'CONNOR'S 2011-2012 P. 306~~ (2). CHILD SUPPORT/PARENTAGE, ~~PERSONAL~~ IN PERSONAM JURISDICTION, PERSONAL JURISDICTION: STATE'S A FEDERAL COURT CAN MAKE A DETERMINATION OF PARENTAGE. SEE, APPX.E, G, H, I, J - APPX.P

*SEE, LITTLE V. STREATER 101 S. CT. 2202, 2205-2207 (1981) THIS COURT HAS STATED UNDER ID, CLEARLY ESTABLISHED FEDERAL LAW THAT PATERNITY PROCEEDING / CRIMINAL PROCEEDINGS HAS QUASI JUDICIAL

ENJO, SAWYER, SUPRA, COULD A JURY FIND DEFENDANT PETITION, PLAINTIFF GUILTY UNDER APPLICABLE [TEX. FAM. § 60] LAW § 60.103 (a), (b) AS JIM G.'S BIOLOGICAL FATHER.

JUDICIAL OVERTONES, Id., 2205-2207, SEE
ALSO FLORENCE v. COX, 07-17-00390-W, APPX
SUPRA VERIFYING WATTE, THE TEXAS ATTORNEY
GENERAL'S REPLY IN APPX , P. 7 FN. 4 MUST BE
GIVEN EVIDENTIARY VALUE.

SEE, ALSO, MARTINEZ, SUPRA A CIVIL ACTION
IN TEXAS REGARDING MATERNITY IS A CIVIL
ACTION.

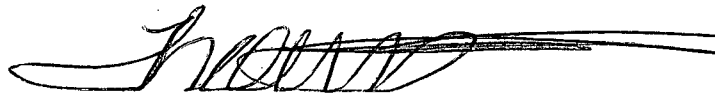
* AFTER REVIEW OF APPLICABLE STATE LAW
FAM. §160.103 (a), (b), §160.503 (a), ~~AP~~ AP
PX, N, §160.504 (a), (b), §160.505 (a), (1), (2),
APPX. G, H, I, IS CLEAR AND CONVINCING
2254 EVIDENCE PETITIONER CAN NOT BE
ADJUDICATED / CONVICTED OF BEING J.M.G.'S
BIOLOGICAL FATHER AS A MATTER OF STATE LAW
SAWYER, SUPRA. FN. 11.

* SEE, STATE v. ROSS, 953 SW2d 748 (TEX. CRIM. APP. 1997)
TEXAS HIGHEST COURT ON CRIMINAL MATTERS HAS
STATED [C]OURTS HAVE NO POWER TO LEGISLATE
COURTS HAVE NO POWER TO CREATE AN EXCEPTION
TO A STATUTE, [TEX. FAM. §160.103 (a), (b) CON-
TROLS / APPX. M, N, O,] NOR HAVE POWER TO ADD OR
TAKE AWAY FROM LEGISLATIVE PLAIN REMEDIES
SEE, BOYKIN, IN RE LEE, SUPRA'S THE LOWER STATE

FN. 11, §22.54 (2)(1), GREENISH T36 SUPRA, U.S. CA.
14, T.C.C.P. ART. 1.04, ALSO SEE, MELANDEZ-DEAZ/
JACKSON, SUPRA'S

AND FEDERAL COURT'S IGNORED APPLICABLE
ADJUDICATION OF LEGAL/LAWFUL ADJUDICA-
TION OF PARENTAGE, SEE, §160.103(a), (b),
ATTY. GEN. OF TEX. INFO. MEMO. #IM 97.03 APRIL-
10.1997, APPX. N, SEE APPX. O, §160.504 (a), (b)
§160.505 (a) (1), (2), ALSO SEE APPX. G/M, ALL
CLEAR/CONVINCING EVIDENCE THAT STATE'S
NO. 12, APPX. F DOES NOT ADJUDICATE PETITION-
ER AS J.M.G.'S TRUE BIOLOGICAL FATHER AS
A MATTER OF LAW, SAWYER, JACKSON, 315,
318 SUPRA'S SEE, TEXAS FAMILY CODE §160. SUPRA'S
IF THIS COURT HAS JURISDICTION IT MUST
VOID APPX. F, JACKSON, 315, 318 SUPRA. FINAL
SEE HOWARD 1971 SUPRA.

RESPECTFULLY SUBMITTED

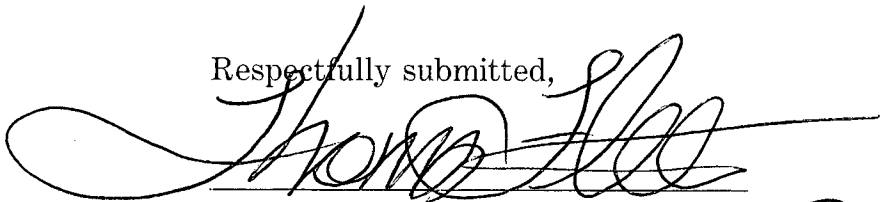
 8-27-18

END 2, APPX'S G, H, I, J, K1-K4, L1-L4, M, N, O, P, TEX. FAM. CODE
§160.103 (a), (b)

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Thomas H. Lee", written over a horizontal line.

Date:

AUGUST 22, 2018