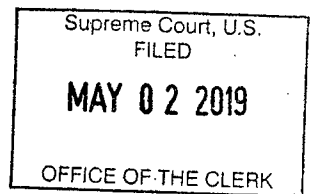


SUPREME COURT OF THE UNITED STATES
WASHINGTON, D.C.



DALE ALLEN HAMER,
Petitioner, §

v.

§

No. 18-4932

LORIE DAVIS, DIRECTOR,
TEXAS DEPARTMENT OF §
CRIMINAL JUSTICE,
CORRECTIONAL INSTITUTIONS
DIVISION, §

PETITION BRIEF

COMES NOW DALE ALLEN HAMER, Petitioner
Pro-Se, and respectfully request this Court
to grant this petition for a rehearing Rule
44.

The petition for a writ of certiorari was filed
on October 5, 2018, and placed on the docket on
February 12, 2019, pursuant to Rule 15.3 the due
date for a brief in opposition is Thursday March
14th 2019. However no brief was mailed to
petitioner by counsel of record. The petitioner
certified in his petition that the Attorney
of the Court the fact that the constitutionality
of an act of congress was drawn into
question by petitioner.

On July 17, 2014 petitioner was spot illegal
and arrested in violation of petitioner's Fourth
Amendment. In the writ of certiorari the

petitioner carries the burden of rebutting the presumption of correctness by clear and convincing evidence that the spot was illegal. And that the fact the officer acted lawfully invalidates the transportation code sec. 545.058. Driving on improved shoulder see Corn v. State, cite as 85 S.W.2d 972 (Tex. crim. app. 2002); also in Wright v. State 7 S.W.3d 148 (Tex. crim. app. 1999); in Mapp v. White 362 U.S. 643 654-55-81 S.Ct. 1684 C.L.Ed. 2d 1081 (1961); in Terry v. Ohio 392 U.S. 1 (1968).

petitioner was not in violation of any state or federal transportation laws on July 17, 2014. The two indictments are void of Aug 19, 2014 and of October 30th 2015. See Cook v. State 902 S.W.2d 491 (1995) in violation of petitioner's constitutional rights.

The constitutional provisions treating statutes or ordinances and regulations involved in the case. Set out verbatim with appropriate citation.

Tex Penal Code Ann 49.09(f) Vernon supp 2001 (emphasis added MISDEMEANOR 49.04 conviction may not be alleged to enhance punishment under section 12.43(d) The habitual offender Statutes Historical and statutory notes Acts 2001 97th Leg. ch 455 subsec (e)(1) (e)(2) (e)(3) and as renumbered, substituted "with in 10 years before the date on which the

offense for which the person is being tried was committed, relettered former subsec (f) as subsec (g)? and added a new subsec (f).

The Texas Supreme Court held: If an act is unconstitutional it is no law at all Miller v Davis 150 S.W. 2d 943 (1941)

The Texas Penal Code is the compilation of statutes which create the causes of action for the prosecution of alleged offenses.

District Court Jurisdiction depends upon act & sec & Texas constitution and the [Penal] Statutes. However when the Penal Statutes is void no foundation for conviction, and sentence, exists *Ex parte Halstead*, 182 S.W. 2d 479 (Tex. Crim. App. 1944) a void law affords no basis for criminal prosecution being that a void Penal Code statute provides no basis for prosecution the trial court has no jurisdiction of the subject matter no jurisdiction to enter the judgment, and lacks the capacity to act as a court in the prosecution of the case.

Resulting in the court's judgment being Cook v. Cameron, 733 S.W. 2d 137, 140 (1987); *Ex parte Seidel* 29 S.W. 3d 221, 225 (Tex. Crim. App. 2001) on void judgment.

the opinions, orders, findings of facts, and conclusions of law in this petition, whether written or orally given and transcribed, entered in conjunction with the judgment sought to be reviewed.

Sincerely,

Doc Allen Humes

WHEREFORE DRENISES CONSIDERS THAT PETITIONER PRAYS THAT THE COURT SIGN THIS petition with Brief for hearing, certify that the petition for hearing is presented in good faith and not for delay.

Proof of service

petitioner is serving a copy of petition on counsel for respondents as required by Rule 29.

Sincerely,

Doc Allen Humes

CERTIFICATE OF SERVICE

I petitioner Dale Allen Hamer, hereby certify that on this 15th day of May 2019 A true and correct copy of the above and foregoing petition with brief supporting the petition set forth for rehearing was transmitted by U.S. mail to the office of the clerk Supreme Court of the United States Washington, D.C. 20543-0001

Sincerely
Dale Allen Hamer