

IN THE  
SUPREME COURT OF THE UNITED STATES

NO.

**18-8974**

STANLEY BRUCE ROBERSON

(Petitioner)

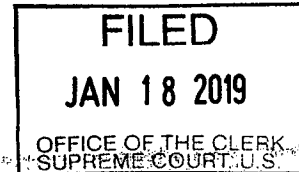
- AGAINST -

STATE OF TEXAS

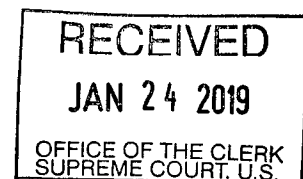
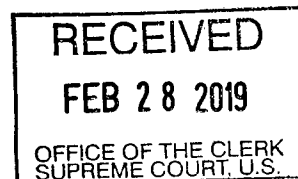
(Respondent)

Petition for a Writ of Certiorari  
to the Texas Court of Criminal Appeals

Stanley B Roberson  
3899 HWY 98 (Telford)  
New Boston, Texas 75570



**ORIGINAL**



### Questions Presented

1. Does the unvalidated method of statistical extrapolation used to confirm quality and quantity of controlled substances constitute scientifically reliable evidence?

2. Do the unequal standards used by Texas Appellate Courts in their review of the legal and scientific propriety of statistical sampling in criminal cases offend the equal protection and due process rights of defendants?

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Decisions Below

The decision of Texas Court of Criminal Appeals is unreported. Petition for Discretionary Review was denied on 9-26-18. A copy is attached as Appendix "A" to this petition. The order of the Court of Appeals 6th Appellate District of Texas is not reported. A copy is attached as Appendix "B" to this petition.

### Jurisdiction

The judgement of the Texas Court of Criminal Appeals was entered on 9-26-18 an order denying a Petition for Discretionary Review. A copy of that order is attached as Appendix "A" to this petition.

Jurisdiction is conferred by 28 U.S.C. 1257.

### The Basis for Federal Jurisdiction

\_\_\_\_ This case raises questions about the due process and equal protection clauses of the 14th Amendment to the United States Constitution. The State Appellate Court and the Texas Court of Criminal Appeals had jurisdiction to rule on the federal questions.

### Constitutional and Statutory Provisions Involved

This case involves the 14th Amendment to the United States Constitution, which provides:

**Section 1.** "All citizens of the United States are citizens of the state in which they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

**Section 5.** "The Congress shall have power to enforce by appropriate legislation the provisions of this article."

### Statement of the Case

The scientific testimony given at Roberson's trial was not properly validated to the jury. The chemist could only surely testify to the quality and quantity of the small sample that he analyzed. The method he used was unquestionably flawed. The pills were sorted into color groups. This took away any claim that the sample was random. The (29) orange pills, which were the only items that were actually chemically analyzed, were used to infer that the remaining untested orange pills were equal to (400) grams of methamphetamine. The sample used in the statistical extrapolation was less than 1% of the (2,344) pills. The jury was also allowed to see about (8,000) pills that were confiscated. No information about these pills could be inferred. Mr. Roberson was sentenced to (60) years in T.D.C.J.

The Appellate Court refused to entertain the appellant's request for a factual sufficiency analysis. The Court ruled that the evidence was legally sufficient to support the verdict.

Mr. Roberson asked the Texas Court of Criminal Appeals to review the situation. The issue is unique and the Appellate Court did not justify it's decision with the extremely distinguishable cases it cited in it's decision memorandum. (See Pages 7-8 of Memorandum.) The Appellate Court allowed the same type of evidence that would be ripe for factual



analysis in any civil matter to support Mr. Roberson's  
Guilty verdict.

### Reasons for Granting the Writ

#### A. Conflict with United States Supreme Court:

The Texas Supreme Court in similar cases involving the same type of questions has ruled to reverse jury verdicts. The reversal in Merrell Dow Pharmaceuticals, Inc. V. Havner, 953 SW2d 706, 708 (TEX 1997) was based on the scientific soundness of a statistical extrapolation which was used by the jury to support the verdict. (See also Pages 715-716) This is the exact type of evidence which is contested in the instant case.

The United States Supreme Court, in the Daubert V. Merrell Dow Pharmaceuticals, Inc, 113 S. Ct. 2786, held that a valid basis for the determination of a scientific methodology's reliability should be considered when reviewing the legal sufficiency of evidence. The Supreme Court held in Daubert that:

"A flaw in the expert's reasoning from data may render reliance on a study unreasonable and render the inferences drawn from them dubious. Under that circumstance the expert's scientific testimony is unreliable and legally no evidence."

B. Importance of Questions Presented

The case at hand presents questions about the constitutionality of the way supposed "evidence is used. It appears that the fundamental fairness that is supposed to be present in a trial is lacking in the instant case and all the controlled substance cases that are prosecuted with what may be no evidence. The difference in the way factual sufficiency issues are treated by the Appellate Courts offends the criminal defendant's 14th Amendment Rights to Due Process and Equal Protection.

The disparity in evidence analysis at the appeal level presents two different legal definitions of legal and factual sufficiency. The "mixture" and adulterant/dilutant analysis does not apply to cases like this. That is why the cases cited by the 6th District Court do not justify the non random sampling technique used in these types of controlled substance prosecutions. Supposedly Jackson V. Virginia, 99 S. Ct. 2781 supports legal insufficiency standards for both civil and criminal appeals in Texas. This instant case and all similar cases may allow fundamentally unfair convictions to occur. This Court should correct the inconsistent evidentiary unfair convictions to occur. This Court should correct the inconsistent evidentiary standards used to uphold Criminal Prosecutions.

Conclusion

For the foregoing reasons, Certiorari should be granted in this case.

18 of January, 2019

Respectfully Submitted,

A handwritten signature in dark ink, appearing to read "Douglas A. Kohn", is written over a horizontal line.