

JAN 03 2019

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18-9118  
No. \_\_\_\_\_

IN THE  
SUPREME COURT OF THE UNITED STATES

WASHINGTON, D.C. 20543

EMANUEL BEZION FIELDS — PETITIONER  
(Your Name)

vs.

LOUIE DAVIS, DIR, TDCJ-CID — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

THE UNITED STATES COURT OF APPEALS 5TH CIRCUIT  
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

EMANUEL FIELDS  
(Your Name)

INTERSTATE UNIT 2000 FM 2054  
(Address)

TENN. COLONY, TX 75886  
(City, State, Zip Code)

N/A  
(Phone Number)

**ORIGINAL**

QUESTION(S) PRESENTED

IN THIS CASE FIELDS' QUESTIONED PRESENTED WITHIN THIS CASE. WAS HIS U.S. CONSTITUTIONAL RIGHTS WERE DENIED IN TRIAL COURT WHEN PROSECUTION DENIED HIS U.S. CONSTITUTIONAL RIGHTS UNDER RASTON AND HIS 14TH AMENDMENT EQUAL PROTECTION CLAUSE. DUE TO THE PROSECUTION WHO STRUCK THREE POTENTIAL BLACK JURORS WHO HAD CLOSE RELATIVES FROM SITTING ON FIELDS' JURY. BUT, ALLOWED THREE WHITE JURORS SIT ON JURY WHEN WHITE JUROR WENT "UNCHALLENGED" THEREFORE, WHITE JURORS WHO ARE IN COMMON WITH BLACK JURORS DUE TO THE FACT BLACK/WHITE JURORS BOTH HAD CLOSE RELATIVES WITH "CONVICTIONS". WHEN WHITE JURORS WERE TREATED DIFFERENTLY?

## LIST OF PARTIES

PURSUANT TO RULE 12.6 STATES THAT ALL PARTIES TO PROCEEDING WHERE JUDGEMENT IS SOUGHT TO BE REVIEWED SHALL BE DEEMED PARTIES IN THIS COURT, AND THAT ALL PARTIES OTHER THAN PETITIONER SHALL BE RESPONDENT. THE FOLLOWING PERSONS ARE INTERESTED PARTIES:

PETITIONER

EMANUEL D. FIELDS  
TDCJ # 01227071  
MICHAEL UNIT  
2604 FM 2054  
TENN. COLONY, TX 75886

RESPONDENT

LORIE DAVES, DIL.  
TEXAS DEPARTMENT OF  
CRIMINAL JUSTICE  
INSTITUTIONAL DIVISION

DISTRICT COURT JUDGE

HON. N/A  
U.S. MAGISTRATE JUDGE  
HON. N/A  
U.S. DISTRICT JUDGE  
U.S. DISTRICT COURT  
MONTGOMERY DISTRICT OF TEXAS  
1100 COMMERCE - RM 1452  
MILITAS, TX 75242-1452

U.S. COURT OF APPEALS 5TH CIRCUIT  
JUSTICES

JUSTICES HON. SMITH, HON.  
HIGGINSON, AND HON. DUGAN  
U.S. COURT OF APPEALS 5TH  
CIRCUIT  
600 S. MAESTRI PLACE  
NEW ORLEANS, LA 70130

## 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:

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APPENDIX A FILES FILED 60(b)(6) IN DISTRICT COURT. MOTION AS AN AFFIDAVIT UNAUTHORIZED. SUCCESSIVE § 2254 APP. AND TRANSFERRED TO 5TH CIR COURT. AFFIRMED. MOTION FOR LEAVE TO PROCEED FORMA PAUPERIS ON APPEAL DENIED. MOTION TO FILE SUCCESSIVE § 2254 DENIED. U.S. COURT OF APPEALS 5TH CIR COA DENIED / LEAVING EN BLOC DENIED. APPENDIX B

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## TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
<u>BASTON V. KENTUCKY</u> , 476 U.S. 79 (1969). . . . .	(54)
<u>RHODES V. DAVIS</u> , 852 F.3d 422 UNDER U.S.C.A. § 2283	
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<u>MILLER - ET. II</u> , 125 S.Ct. at 2319-20. . . . .	(5B)
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<u>U.S. V. DAVIS</u> , 803 F.2d 1567, 1571 (C.A. 11 1986). . . .	(5B)
<u>MILLER - ET. V. McKEAL</u> , 537 U.S. 322, 320-29, 123 S.Ct. 1029 (2003). . . . .	(5A)

### STATUTES AND RULES

BASTON DISCRIMINATION PURPOSE IN VIOLATION OF EQUAL PROTECTION GUARANTEE OF THE U.S. CONSTITUTION.

THE FOURTEENTH AMENDMENT GUARANTEES EVERY DEFENDANT IN A CRIMINAL CASE EQUAL PROTECTION UNDER LAW.

### 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 A 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 B to the petition and is

[ ] reported at Ex parte Fields, Nos. 61,187-02, 61,187-03; 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 NOV 5, 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: 12-4-18, 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 Jan. 11, 2006. A copy of that decision appears at Appendix   B  .

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

[ ] An extension of time to file the petition for a writ of certiorari was granted to and including   N/A   (date) on   N/A   (date) in Application No.   A  .

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

## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

PETITIONER FILED MOTION IN DISTRICT COURT INVOKING FEDERAL RULE OF CIVIL PROCEDURE 60(b)(6). DISTRICT COURT CONSTRUED PETITIONERS' MOTION AS AN UNAUTHORIZED SUCCESSIVE § 2254 APPLICATION AND TRANSFERRED THE MATTER TO THE U.S. COURT OF APPEAL 5TH CIRCUIT. PETITIONER APPEALS THE DISTRICT COURTS' TRANSFER ORDER AND MOVES FOR AUTHORIZATION TO FILE A SUCCESSIVE § 2254 APPLICATION.

PETITIONER PREVIOUSLY RAISED HER BASTON CLAIM IN INITIAL § 2254 APPLICATION, AND THE CLAIM IS BASED ON FACTS KNOWN AT TRIAL. THEREFORE, DISTRICT COURT PROPERLY DETERMINED THAT THE MOTION WAS AN UNAUTHORIZED SUCCESSIVE § 2254 APPLICATION.

PETITIONERS' THE TRANSFER ORDER OF DISTRICT COURT AFFIRMED. MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS ON APPEAL DENIED. MOTION FOR AUTHORIZATION TO FILE SUCCESSIVE § 2254 APPLICATION DENIED. PETITIONER FILED COA HIS U.S. CONSTITUTIONAL RIGHTS WERE DENIED UNDER BASTON AND 14TH AMENDMENT EQUAL PROTECTION CLAUSE. ARGUMENT THAT COURT GRANT OF A COA IN ROHANES V. DATES, 852 F.3d 422 (8TH Cir. 2017), SUPPORTS HER BASTON CLAIM. COA WAS DENIED. FILED WRITIN 5TH CIRCUIT PETITION FOR REHEARING EN BANC WHICH WAS DENIED. THE U.S. COURT OF APPEALS HAS ENTERED A DECISION THATS IN CONFLICT WITH DECISIONS OF THE COURT ON BASTON AND 14TH AMENDMENT EQUAL PROTECTION CLAUSE.

## STATEMENT OF THE CASE

THIS WRIT OF CERT LIES FROM THE DENIAL OF FIELDS' (60)(b)(6) WITHIN THE U.S. DISTRICT COURT NORTHERN DISTRICT OF TEXAS DALLAS DIVISION. FURTHERMORE, THE DENIAL OF FIELDS' COA WITHIN THE U.S. COURT OF APPEALS FIFTH CIRCUIT ALL BASED ON FIELDS' U.S. CONSTITUTIONAL RIGHTS UNDER RASTON AND HIS 14TH AMENDMENT EQUAL PROTECTION CLAUSE DENIED. FIELDS' TIMELY FILED HIS PETITION FOR REHEARING EN BANC WITHIN THE U.S. COURT OF APPEALS FIFTH CIRCUIT. WHICH WAS DENIED BY U.S. CIRCUIT JUDGE STEPHEN A. HIGGINSON. FIELDS IS HERE WITHIN THIS COURT WITH MERITS OF HIS U.S. CONSTITUTIONAL RIGHTS UNDER RASTON WAS DENIED SEEKING RELIEF.

## REASONS FOR GRANTING THE PETITION

FIELDS CONTENDS WITHIN THIS CASE THE PROSECUTION VIOLATED HIS U.S. CONSTITUTIONAL RIGHTS UNDER BARTON AND HIS 14TH AMENDMENT EQUAL PROTECTION CLAUSE DENIED.

PROSECUTION USED FIVE OF HIS 10 PEREMPTORY CHALLENGES TO EXCLUDE ALL ELIGIBLE AFRICAN-AMERICANS FROM JURY SERVICE IN VIOLATION OF FIELDS' U.S. CONSTITUTIONAL RIGHTS UNDER BARTON AND HIS 14TH AMENDMENT EQUAL PROTECTION CLAUSE DENIED. DUE TO THE RECORD THAT THREE WHITE JURORS WHO HAD CLOSE RELATIVES CONVICTED OF CRIMINAL HISTORY WENT UN-CHALLENGED TREATED DIFFERENTLY THAN THE THREE BLACK JURORS THAT WERE IN COMMON WITH WHITE JURORS THEY ALSO, HAD CLOSE RELATIVES CONVICTED OF CRIMINAL HISTORY WERE NOT ALLOWED TO SERVE. THE WHITE JURORS THAT WENT UN-CHALLENGED, TREATED DIFFERENTLY ALLOWED TO SERVE ON FIELDS' JURY WERE (a) LISA HOLMSTED HAD A BROTHER WHO HAD BEEN CONVICTED OF A CRIMINAL CASE (SEE RII, P. 86-87); (b) Adrian CUNNINGHAM HAD A SISTER CONVICTED OF DWI AND A BROTHER WHO HAD BEEN CONVICTED OF A ROBBERY (SEE RII, PP. 96-97); and (c) SUA GUSS, WHO HAD A NEPHEW WHO HAD JUST GOT OUT OF PRISON (SEE RII, PP. 97-98). HER NEPHEW HAS A CONVICTION.

THE BLACK JURORS WHO WERE CHALLENGED NOT ALLOWED TO SERVE ON FIELDS' JURY WERE IN COMMON WITH WHITE JURORS DUE TO THEY HAD CLOSE RELATIVES WITH CONVICTED OF CRIMINAL HISTORY. WERE JURORS #15 CATHY GREEN, JUROR #40 DARRELL MEALPIN, JUROR #49 WANDA BRIGHAM.

(CONTINUATION) A

REASON FOR GRANTING THE  
PETITION

PROSECUTION STRUCK POTENTIAL JUROR #15, CATHY GREEN DUE TO THE RECORD SHE HAD A SON IN DALLAS COUNTY, TX CONVICTED OF ASSAULT IS ONE OF PROSECUTION'S REASON (SEE RR II P. 133).

PROSECUTION STRUCK POTENTIAL JUROR # 40, DARRELL MCALPIN - DUE TO ~~THAT~~ HE HAD A BROTHER THAT WAS CONVICTED OF A ROB-BERY (SEE RR II. P. 137).

PROSECUTION STRUCK POTENTIAL JUROR #49, HANNA BRIGHAM, WHO WAS THE LAST AFRICAN AMERICAN JUROR THAT COULD OF HAD AN OPPORTUNITY TO SERVE AS A MEMBER OF THE JURY, DUE SHE HAS A BROTHER IN PRISON CONVICTED OF A ROBBERY.

DEFENSE COUNSEL MADE A RATION OBJECTION (SEE RR II, P. 132). FIELDS' CONTENDS RATION PROVIDES A THREE-STEP PROCESS FOR A TRIAL COURT TO USE IN ADJUDICATING A CLAIM THAT PEREMPTORY-CHALLENGE WAS BASED ON RACE:

"FIRST, A DEFENDANT MUST MAKE A PLAIN FACE SHOWING THAT A PEREMPTORY CHALLENGE HAS BEEN EXERCISED ON THE BASIS OF RACE; [S]ECOND, IF THAT SHOWING HAS BEEN MADE, THE PROSECUTION MUST OFFER A RACE-NEUTRAL BASIS FOR STRIKING THE JUROR IN QUESTION; AND [T]HIRD, IN LIGHT OF THE PARTIES SUBMISSIONS, THE TRIAL COURT MUST DETERMINE WHETHER THE DEFENDANT HAS SHOWN PURPOSEFUL DIS-CLIMINATION. (Quoting WILLIAMS - P. V. COCKLE, 537 U.S. 322, 320-29, 123 S.Ct. 1029 (2003)).

FIELDS' CONTENDS THE U.S. DISTRICT COURT, 5TH CIRCUIT FAILED TO (SEE) THE (STATE) PROSECUTION SOLE REASON WITHIN THIS CASE STRIKING THE THREE BLACK JURORS FROM SERVING ON FIELDS' JURY IS THEY HAD CLOSE RELATIVES WITH CRIMINAL HISTORY.

REASON FOR GRANTING THE  
PETITION

FIELDS' CONTENDS THE WHITE JURORS WHO SERVED ON FIELDS' JURY ARE IN COMMON WITH BLACK JURORS DUE TO THE FACT THEY BOTH SHARED IDENTICAL CHARACTERISTICS. BOTH WHITE/BLACK JURORS HAD CLOSE RELATIVES WITH CONVICTIONS. HOWEVER, THE WHITE JURORS WENT UN-CHALLENGED AND TREATED DIFFERENTLY DUE WHITE JURORS ALLOWED TO SERVE ON FIELDS' JURY BLACK JURORS STRUCK (SEE MILLER-FEL II, 128 S.C.T. at 2319-20). (SEE RHADIES V. DAVIS, 852 F.3d 422 UNDER U.S.C.A. § 2283 (c) 2017 COA -- GRANTED).

FIELDS CONTENDS "THE CONSTITUTION FORBIDS STRIKING EVEN A SINGLE PROSPECTIVE JUROR FOR DISCRIMINATORY PURPOSE." (SEE UNITED STATES V. LANE, 886 F.2d 103, 105 (C.A.4 1989); ALSO (SEE; UNITED STATES V. DAVIS, 803 F.2d 1567, 1571 (C.A.11 1986)). THE SUPREMACY CLAUSE STATES "SINCE STATE COURTS ARE BOUND BY THE SUPREMACY CLAUSE TO OBEY FEDERAL CONSTITUTION LAW. THE STATE COURTS DISOBEDIED THE SUPREMACY CLAUSE WHEN THEY DENIED FIELDS' U.S. CONSTITUTIONAL RIGHTS UNDER BASTILLE AND, HIS 14TH AMENDMENT EQUAL PROTECTION CLAUSE. FIELDS CONTENDS THE U.S. DISTRICT COURT AND U.S. COURT OF APPEAL 5TH CIRCUIT FAILED TO (SEE) HIS U.S. CONSTITUTION RIGHTS DENIED).

FIELDS HAS PROVED THIS BURDEN IN THIS CASE, AND REQUEST THIS COURT TO GRANT HIM RELIEF.

## **CONCLUSION**

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Emanuel Fields

Date: 1-3-19