No. 19-1140

In The
SUPREME COURT OF THE UNITED STATES

***In re* WESLEY PERKINS,**
Respondent – Appellant –
Petitioner (Mand.) – Petitioner (Mand.)

ON PETITION FOR A WRIT OF MANDAMUS TO THE
COURT OF APPEALS,
THIRD DISTRICT OF TEXAS

ORIGINAL PETITION FOR A WRIT OF MANDAMUS WITH APPENDIX A

WES PERKINS
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Questions Presented

Denial of Access (on Appeal)

1.a (New) Is TEX. CODE CRIM. PROC. art. 42A.755(e) unconstitutional, as applied?

1.b (New) Are TEX.RS.APP.P. 25.2(a)(2), (d) unconstitutional, facially or as applied?

2. Is 3d.CoA abusing discretion by stalling?

3. Is 3d.CoA abusing discretion by not treating LIPSCOMBE as recused?

4. Is TEX. TRANSP. CODE unconstitutional, as applied?

Parties to Mandamus Proceeding Below

Petitioner

WES PERKINS
pro se

Respondents

- COURT OF APPEALS FOR THE THIRD DISTRICT OF TEXAS (Rose, C.J., Triana, Smith)
- COUNTY COURT AT LAW NO. 3 OF TRAVIS COUNTY, JUDGE JOHN LIPSCOMBE ("CCL3")
- ADMINISTRATIVE JUDGE FOR THE TRAVIS COUNTY COURTS AT LAW, JUDGE BILLY RAY STUBBLEFIELD
- STATE OF TEXAS

No appearance of counsel made/needed.
DAVID A. ESCAMILLA
TRAVIS COUNTY ATTORNEY
P.O. Box 1748
Austin, TX 78767-1748

Directly Related Proceedings

Trial on the merits ("Case 1") [1]
County Court at Law No. 3 (LIPSCOMBE), Travis County, Texas (**CCL3**), No. C-1-CR-13-200882

STATE OF TEXAS v. PERKINS

Final Judgment (includes Probation): Aug. 26, 2014

Direct Appeal
3d.CoA (Austin), No. 03-14-733-CR

PERKINS v. STATE OF TEXAS

Affirmed: Feb. 19, 2016

Discretionary review – state
S.Ct.Tex., No. 16-0247

PERKINS v. STATE OF TEXAS

Denied (*not* DWOJ): May 13, 2016

Discretionary review – here
S.Ct.U.S., No. 16-680

PERKINS v. TEXAS

Denied: Feb. 21, 2017 (and rehearing denied)

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[1] "Case 2" – No. C-1-CR-14-212016 (commercial nexus existed) (sentence completed; recent Habeas denied; insane 3d.CoA ruling on direct appeal);

"Case 3" – No. C-1-CR-19-200932 (no commercial nexus) (very recent jury trial; M/New Trial filed; pre-trial Mandamus, No. 20-0021 (S.Ct.Tex.)); illegal arrest suit, No. 1:20-CV-70 (W.D.Tex. (Austin)).

Probation revocation ("Case 1")
CCL3, No. C-1-CR-13-200882
STATE OF TEXAS v. PERKINS
Probation revoked: May 6, 2019

Direct Appeal of Probation revocation
3d.CoA, No. 03-19-339-CR
PERKINS v. STATE OF TEXAS
In process (log jam since July, 2019)
Abated and Remanded: Aug. 27, 2019

Mandamus re Log Jam in Direct Appeal of Probation revocation – Ct.Crim.App.Tex.
Ct.Crim.App. (**CCA**), No. WR - 88,116 - 03
IN RE PERKINS
Leave Denied: **Dec. 11, 2019**

Petition

Perkins requests Mandamus to 3d.CoA.

Citations below

None.

Jurisdiction

(i) Date CCA denied leave.
Dec. 11, 2019. [+90: Mar. 10, 2020]

(ii) Extension(s).
None.

(iii) Rule 12.5.
N/A

(iv) Statutes, Jurisdiction.
28 U.S.C. §§ 1651(a), 2101(c).

(v) Statutory challenges, Rule 29.4(c).
TEXAS's AG's Office is served.

Texas Legislature

> When the defendant is notified that the defendant's community supervision is **revoked** for a violation of the conditions of community supervision **and** the defendant is called on to serve a sentence in a **jail** or in the Texas Department of Criminal Justice, **the defendant may appeal the revocation.**

TEX. CODE CRIM. PROC. art. 42A.755(e) (eff. Jan. 1, 2017) (all **emphasis** supplied).

3d.CoA

TEX.RS.APP.P. 25.2(a)(2) ("Certificate" required for "each ... judgment ... or other appealable order"), (d) (Record must include "Certificate").

Statement of the Case

Denial of Access

Statutory construction; appellate jurisdiction.

3d.CoA stalls using promulgated RS.25.2(a)(2), (d) ("Certificate" *always* required) as superior to Art. 42A.755(e) (no "Certificate" or party's signature mentioned). 3d.CoA's no-thought-required bright-line rule is uniform and efficient, but it will never *obviate* review of the Record to determine "adversarial-ness" (jurisdiction). Issue 1 (3d.CoA).

The Log Jam, since July, 2019.

3d.CoA's insistence on that "Certificate" in *this* context turns control of the entire *appeal*, including access, over to the *trial* judge, LIPSCOMBE, who has *repeatedly, intentionally* violated Perkins's rights.

Perkins filed, Served Mandamus. LIPSCOMBE then finally *signed* one. But, he's refusing to *file* it. 3d.CoA has a copy, two actually, certified by Perkins, but is *still refusing* to address the briefed appeal.

Players, Programs

Perkins.

Perkins gives Notice via his *non*-DMV-approved taggage that he *doesn't* consent to Sixth Plank policy.

LIPSCOMBE.

"CASE 1."

First time Class B. Two key features.

(1) The Bond-jacking episode.

Appearance Bond ($2,000); Perkins *always* appeared.

On the day of *trial.*

- STATE moved to modify/revoke Bond, alleging the same ultimate issue for *trial.* Procedurally, there's a 3-day minimum for Notice. Substan-

tively, there's simply no such Condition in the Bond *or* any Transcript.

- Despite there being no Notice and *no violation*, and instead of *trying* that ultimate issue, LIPSCOMBE preferred blind-siding Perkins with *pre-trial* Bond-jacking, *jailing* him until Bond was satisfied at **$10,000 cash** ($9,500).

(2) Probation for ***two years***.

During direct appeal, Perkins terminated his last "Certificate of Title" trust. Thus, Perkins challenged the "get a license" Probation Condition, which had changed from legit to compelled consent.

"CASE 2."

Given the Bond-jacking, Perkins filed his (first) Motion to Disqualify/Recuse. LIPSCOMBE set "Case 2" during his vacation; thus, MCCORMICK presided.

REGARDING "CASE 3," MAY, AND AUGUST (2019).

Dec. 2016.

Perkins terminated the commercial nexus.

Jan. 2019.

"Case 3" filed.

Coincidence? Perkins's *very last* Probation meeting was the morning of the evening he was stopped (car stolen, and etc.).

April 30, May 1.

Given the escalation, via Fourth Plank theft *and* interstate transfer of Perkins's car *and* his property, Perkins, in his jurisdictional challenges, told ***all*** the Nazis *and* Communists to "get over" the reality that Perkins wasn't consenting to Sixth Plank "transportation" policy. LIPSCOMBE went ballistic. Accelerating the witch hunt, LIPSCOMBE put "Case 3" on a rocket docket to match no other.

May 6 and following.

Probation revocation *is* "Case 3" (stripped of "all" procedural safeguards). STATE had "no evidence" of "transportation" or "consent." LIPSCOMBE *revoked* anyway and then jailed Perkins *immediately*.

Perkins appealed from jail.

LIPSCOMBE had *intended* that Perkins defend himself for "Case 3" wearing (bright) orange. On the day of trial, needing more time, STATE filed its *first* "amended pleading," thereby obtaining a reset (to Aug. 22); plus, Perkins was already out.

July.

3d.CoA received the Probation revocation Record and requested the "Certificate" within 10 days.

LIPSCOMBE ***can't*** sign that "Certificate" without instantly confessing, "judicially," to *multiple* (*felony*) criminal acts. Therefore, Perkins *immediately* asserted *LIPSCOMBE's* "right to remain silent" *and* filed his *next* Motion to Disqualify/Recuse.

August 22.

On the night before LIPSCOMBE's rocket docket, *special* set trial, still needing time, STATE filed its *second* "amended pleading." **That morning**, LIPSCOMBE transferred "Case 3" (back) to CCL*8*.

"RECUSAL" SUMMARY.

LIPSCOMBE "recused" from "Case 2" *and* "Case 3," but he *refuses* to "recuse" from "Case 1" (i.e., Probation revocation), while simultaneously *defying* his duty to speak regarding the "Certificate."

3d.CoA.

On direct appeal of "Case 2," 3d.CoA entered one of its ***all time*** Top 10 Most Insane Rulings.

Probation revocation – pouring fuel on the tinderbox

CITY escalated these "tag" disputes by "seizing" Perkins's car and his property in it. Perkins demanded return and refused to pay the ransom, so CITY sold Perkins's car and property (cell phone(s), computer(s), etc.) in interstate commerce.

CITY/COUNTY/STATE *also* destroyed exculpatory evidence: Perkins's *non*-DMV-approved taggage.

No "transportation."

Perkins was not "carrying passengers or cargo." Perkins was not (1) removing people and/or property (2) from one place to another (3) ***for hire*** (4) under the choice of law the "place" called "this state."

This is *so* obviously *non*-commercial that even the ticketing, arresting, property-seizing CITY employee made absolutely no inquiry about *any* of it.

No "consent."

Two years prior, Perkins had terminated the last "Certificate of Title" trust in his name.

Thus, no "**vehicle**."

STATE's motion to revoke is, at best, groundless. STATE asserted *semantics*, i.e., terms of *legal conclusion*, **not** facts. STATE's witness "testified" without one shred of personal knowledge about either "transportation" or "consent," asserting terms of legal conclusion, "**vehicle**," "**motor vehicle**," "**drive**," "**operate**," over Perkins's objections.

Perkins's expert witness, Taylor, who obtained "no jurisdiction" rulings in Taylor's "transportation" case, may be the first in TEXAS *and* in UNITED STATES to accomplish that. COUNTY/STATE didn't want to hear reality, either, and LIPSCOMBE struck everything Taylor had said.

Illegal revocation.

No jurisdiction even to entertain STATE's motion. "Case 3," thus revocation in "Case 1," is frivolous, groundless, political. There was ***no violation***.

Illegal arrest, incarceration.

Upon revocation, LIPSCOMBE announced that Perkins had *no* right to appeal.

With that, LIPSCOMBE ordered Perkins arrested and jailed ***immediately***.

The Log Jam and Mandamus

As 3d.CoA's *refusal* to enforce its "Certificate" requirement became obvious, Perkins filed Mandamus.

Then, LIPSCOMBE *signed* a "Certificate."

Just days later, CCA denied leave to file.

But, LIPSCOMBE hasn't *filed* it. LIPSCOMBE blames *Perkins*; *Perkins* didn't sign it, i.e., didn't consent *or* approve the lies. Smelling a rat a mile away, Perkins confirmed receipt by other means.

The County Clerk has supplemented the Record with Perkins's receipt, which includes a true and correct copy of the *signed* "Certificate." Neither LIPSCOMBE nor STATE has objected to either/any certified copy, but 3d.CoA is *still* stalling.

Argument

No adequate remedy at law. The "unit of prosecution" is a *ruling*. The right to appeal means and includes the right to a *ruling*. Damages can't compensate for *that* absence. Specific performance alone protects jurisdiction (*and* (property) rights).

1.a (New) Is TEX. CODE CRIM. PROC. art. 42A.755(e) unconstitutional, as applied?

1.b (New) Are TEX.RS.APP.P. 25.2(a)(2), (d) unconstitutional, facially or as applied?

Perkins *challenged* 3d.CoA's construction, CCA Mand. [pp.1, 4-5, Issue 4, p.12], 3d.CoA Brief [pp.1-2, Issue 1, p.13], just not overtly as "unconstitutional."

Texas Legislature: The right to appeal Probation revocation exists. (No compelled consent/fabrication "Certificate" mentioned.)

LIPSCOMBE, 3d.CoA: No, it doesn't. This defies, e.g., *Crawford*, 541 U.S. 36 (2004) (can't renege a privilege); can't renege rights, either. Plus, appeal is the *sole* procedural safeguard for revocations.

Facially, Rs.25.2(a)(2), (d) punish *defendants*, via dismissal, for *judicial* inaction. As applied, the policy doesn't *regulate* appeals; it positions law-defying *trial* judges to ***prevent*** them. Both facially and as applied, Separation of Powers is violated; the Rules purport to give judges authority to renege statutory rights.

2. Is 3d.CoA abusing discretion by stalling?

"Abated; Remanded" *means* "Affirmed; Mandated," "no appeal; no review." 3d.CoA sees no error on the merits. Given the collateral error, 3d.CoA should *never* have abated (to *LIPSCOMBE*). *LIPSCOMBE* need *file* nothing; no objection to the certified copies.

Without this Court's intervention, there'll *be* no appeal. 3d.CoA and LIPSCOMBE will succeed in reneging rights, *cf. Crawford*, of political targets.

3. Is 3d.CoA abusing discretion by not treating LIPSCOMBE as recused?

Oath abhorrent, statute defying, rights oblitera-

ting, illegal incarceration (after political, no jurisdiction, illegal revocation). Every deadline missed. Copies *are* filed, but **his** *signing* without *filing* is intentional *defiance* of his duty to speak. *Perkins's* signature? – *compelled* consent, falsification, etc.

By operation of time, motions for new trial are overruled; Habeas petitions are forwarded to CCA. Forty-five days of intentional breach of the duty to speak should result in recusal. *See* Issues 5, 6 (CCA).

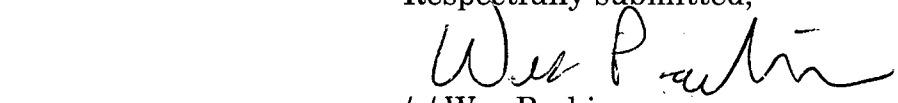
4. Is TEX. TRANSP. CODE unconstitutional, as applied?

No "transportation" + No "consent" = No "**vehicle**." *Lozman* (2013). LIPSCOMBE never had *jurisdiction* to revoke Perkins's Probation.

Relief Requested

1. Grant this petition.
2. Construe the statute and Rules.
3. Order 3d.CoA to
   a. treat LIPSCOMBE as recused; reassign "Case 1" (later); and either
   b. determine appellate jurisdiction the old-fashioned way – review the Record (Issue 1, 3d.CoA); or
   c. use the certified copy(ies).
4. Award costs; and
5. Grant all other relief applicable.

Respectfully submitted,



/s/ Wes Perkins
WES PERKINS

Appendix A

Table of Contents

Rule 14.1(i)(i)—Appellate Opinion/Order A-1

3d.CoA (Aug. 27, 2019) – Abated and Remanded; "Certificate" – second deadline: Sept. 26, 2019. . . . . A-1

Rule 14.1(i)(ii)—Additional Orders A-3

3d.CoA. A-3
"Certificate" – First Deadline: 2019 Jul 19. . . . . A-3
"Certificate" – Third Deadline: 2020 Jan 24. . . . . A-4

CCA – Dec. 11, 2019 – Motion for leave to file Mandamus denied. A-6

CCL3 – May 6, 2019 – Probation revocation. A-7

Rule 14.1(i)(iii)—Rehearing. A-9
None. A-9

Rule 14.1(i)(iv)—Judgment of Different Date. . . A-10
None. A-10

Rule 14.1(i)(v)—Statute and Rules. A-10

TEX. CODE CRIM. PROC. art. 42A.755(e) (eff. Jan. 1, 2017). [*See* Petition] A-10

TEX. RS. APP. P. 25.2(a), (d). A-10

TEX. R. APP. P. 25.2(a). A-10

TEX. R. APP. P. 25.2(d). A-11

TEX. R. APP. P. 25.2(h). A-12

Rule 14.1(i)(vi)—Additional materials. A-12

In general, reference to the Record(s) will suffice. A-12

The signed "Certificate." A-13

"Certificate" deadlines in chronological context. A-16