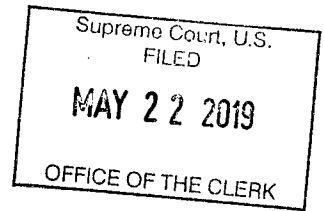


19-5043 ORIGINAL

No. _____



IN THE

SUPREME COURT OF THE UNITED STATES

JUSTIN EDWARD PANUS — PETITIONER
(Your Name)

vs.

STATE OF TEXAS — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

TEXAS COURT OF APPEALS, THIRD DISTRICT
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

JUSTIN EDWARD PANUS
(Your Name)

ROBERTSON, UNIT, 12071 FM 3522
(Address)

ABILENE, TEXAS 79601
(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

Whether it violates the 14th Amendment for the same elemental fact to be used as an element of an offense and also to enhance that offense to a greater offense?

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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STATUTES AND RULES

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 _____ 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☐ is unpublished.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 _____ 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☐ is unpublished.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 ^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☒ is unpublished.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 State Trial _____ 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☒ is unpublished.

JURISDICTION

☐ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was _____.

☐ 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 01/16/19.
A copy of that decision appears at Appendix C.

☒ A timely petition for rehearing was thereafter denied on the following date: 02/27/19, and a copy of the order denying rehearing appears at Appendix D.

☐ 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

- .1. The Fourteenth Amendment of the United States Constitution

"No State shall make or enforce any law which shall abridgshall abridge the privileges or immunities of citizens of the United State; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its juisdiction the equal protection of laws."

STATEMENT OF THE CASE

On October 26, 2019, a grand jury for the 368th District of Texas, convicted the petitioner of first degree aggravated kidnapping.

The Indictment in this case alleges that Defendant committed a kidnapping by abducting Cooper with a deadly weapon. (without which he would only have unlawfully restrained her), and then enhances the kidnapping to aggravated because of the very same deadly weapon. (CR: 47-48). Thus, the same elemental fact (deadly force/deadly weapon) is being used twice to aggravate an unlawful restraint: first to a third degree felony of kidnapping and then to a first-degree felony of aggravated kidnapping. (CR: 47-48)

REASONS FOR GRANTING THE PETITION

The Texas Court of Criminal Appeals has decided an important question of federal law that has not been, but should be, settled by this Court.

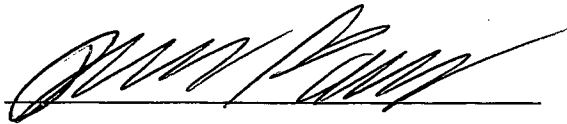
Petitioner Panus argued, and the State disagreed, that it is improper to use one elemental fact "within one indictment for the dual purpose of proving an essential element of an offense" and to prove any essential element for the enhanced offense. *Wisdom v. State*, 708 S.W.2d 840, 845 (Tex. Crim. App. 1986).

Therefore, this issue is of great public importance because it has wider ramifications which effect the way a State can permissibly enhance a criminal offense.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

A handwritten signature in black ink, appearing to be "D. M. P.", is written over a horizontal line.

Date: May 15, 2019