

No. 19-5783

**In the Supreme Court of the United States**

**MONICA TOWNSEND, PETITIONER**

v.

**ERIK VASQUEZ, RESPONDENT**

**ON PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF  
TEXAS**

**PETITION FOR REHEARING**

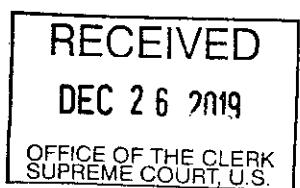
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## **PETITION FOR REHEARING**

Pursuant to Supreme Court Rule 44.1, Monica Townsend respectfully petitions for rehearing of the Courts decision on November 4, 2019, Townsend v. Vasquez No. 19-5783 denial of writ of certiorari. Ms Townsend moves this Court to grant this petition for rehearing and consider her case with merits briefing and oral argument. Pursuant to Rule 44.1, this petition for rehearing is filed within 25 days of this Court's decision in this case. Pursuant to Rule 44.2, Petitioner suggest that there are "intervening circumstances of a substantial or controlling effect" that arose subsequent to the completion of briefing at the certiorari stage militate in favor of granting rehearing ( and certiorari) with respect to vacating the decision and remanding the matter back to the Appeals Court.

### **REASONS FOR GRANTING THE PETITION**

A rehearing is appropriate for the Court for the following reasons:

1. Ignoring criminal conviction involving domestic violence for the purposes of civil court decision is putting the lives of victims and children at risk. America has an epidemic of domestic violence victims and their children being murdered at an alarming rate. When criminal convictions are not considered facts in civil cases the court is allowing the epidemic to continue without legal redress.

2. Judges cannot fabricate facts; evidence or the record for the purposes of crafting a legal decision since the consequences allows fraud to be the norm in legal cases and overturns the basis of American Jurisprudence. The petition for writ of certiorari presented the same merits as those that this court resolved in *McDonough v. Smith Individually And As Special District Attorney For The County Of Rensselaer, New York* (U.S. June 20, 2019). Presumably in light of *McDonough*, this court denied the petition on November 4, 2019.
3. When a judge signs an order without hearing evidence, disputed facts, or testimonies at trial the purpose of trial becomes irrelevant. When the same judge make different decisions despite identical legal circumstances there is a serious aberration in the legal system. The petition for the writ of certiorari presented the same merits as those that this court resolved in *Jim Yovino, Fresno County Superintendent of Schools v. Aileenrizo*, (U.S. February 25, 2019). Presumably in light of *Yovino*, this court denied the petition on November 4, 2019.
4. When voided orders stand that nullifies the courts function. The petition for the writ of certiorari presented the same merits as those that this court resolved in *Jim Yovino, Fresno County Superintendent of Schools v. Aileenrizo*, (U.S. February 25, 2019). Presumably in light of *Yovino*, this court denied the petition on November 4, 2019.

The legal system of the United States of America is based on the principle of an independent, fair and competent judiciary. The role of the judiciary is central to American concepts of justice and the rule of law. When the judiciary is central to American concepts of justice and the rule of law. When the judiciary acts in ways that are outside the framework of the United States Constitution the United States Supreme Court has an obligation to insure the legal decisions rest on the proper foundations. The decision in Townsend versus Vasquez strayed from the Constitutional principles in serious and significant ways that can have profound consequences for the legal decisions nationwide.

A rehearing is appropriate for this case because the Court is not following precedent; the opinion that was made is in conflict with prior opinions of the court. Rehearing is also appropriate because the order violates the 6<sup>th</sup>, 7<sup>th</sup> and 14<sup>th</sup> Amendments of the Constitution and includes misapplications of law. Based on this ruling, the Constitutional guarantees provided to United States citizens are so severely abrogated that the judiciary role of providing fair and impartial review and implementation of laws and legal rules would be rendered moot.

In custody cases involving domestic violence both the victims and the children's lives are at stake. According to the National Coalition Against Domestic Violence on average, nearly 20 people per minute are physically abused by an intimate partner in the United States during one year this equates to more than 10 million women and men. On an ongoing daily basis in the news there are cases of domestic violence victims and children being murdered. The murder of domestic violence

victims and children that have been involved in Family Court cases is an epidemic in America that is increasing at an alarming rate. Family Court is in crisis. According to the Center for Judicial Excellence, a national child advocacy nonprofit that promotes judicial accountability and child safety, since 2008 close to 800 children across the nation have been killed by a parent during circumstances involving divorce, separation, custody, visitation or child support. According to the National Coalition Against Domestic Violence 72 percent of all murder suicides involve an intimate partner, 94 percent of the victims of the murder suicides are female. 1 in 15 children are exposed to intimate partner violence each year, and 90 percent of these children are eyewitnesses to the violence. Not only are women and children at risk due to domestic violence but police officers are also at risk.

According to USA Today, in 2017 more officers were shot responding to domestic violence than any other type of firearm-related fatality, according to the National Law Enforcement Officers Memorial Fund. From 1988 to 2016, 136 officers were killed while responding to domestic disturbances such as family arguments, FBI data show. In recent events this month in Houston Texas officer, Christopher Brewster, was killed in the line of duty while responding to a domestic violence call.

The First Court of Appeals suggestion that judges ignore criminal convictions for the purposes of a civil court judgment puts the lives of victims and children at jeopardy. A criminal conviction of domestic violence allows for protection for the victims and children by law. If the criminal convictions are ignored the protections given by law are no longer in place for the victims and children. Lives are at stake.

Judges must consider relevant evidence in the record when making a ruling. The decision made in Townsend vs. Vasquez was based on ignoring the criminal convictions for domestic violence that were done by Vasquez to Townsend. Those criminal convictions are the salient factors of the case. There was an affirmative finding for family violence for both of Vasquez's convictions against Townsend. Vasquez pled guilty to both of the convictions. When Vasquez pled guilty to the crimes the facts of domestic violence were determined by a criminal legal process to be beyond dispute. Judges cannot ignore or misrepresent or falsify facts that are in the record to create a decision that favors one side or the other. The appellate judges' bizarre idea that a witness's opinion can override the facts of criminal convictions jeopardizes the foundation of American jurisprudence.

The trial court made errors including errors of law, misrepresented facts and evidence, insufficient evidence to support a best interest finding and insufficient evidence to support the trial court judgment. The Appellate Courts decision made the same type of errors as the trial court and added false allegations not supported in the record in a clear violation of the 6<sup>th</sup>, 7<sup>th</sup> and 14<sup>th</sup> Amendments guarantees of the United States Constitution.

When a court decision describes evidence and facts that are not reflected in the court record the 6<sup>th</sup>, 7<sup>th</sup> and 14<sup>th</sup> Amendment guarantees of the United States Constitution are abrogated in fundamental ways. When evidence and facts that are not in the record is used in the decision the nature and cause of accusations becomes unclear. When evidence presented and used in court's decision is not in the

record the citizen has no ability to confront witnesses, which violates the fundamental guarantee of the 6<sup>th</sup> Amendment and destroys the purpose of the United States court system. When United States judges create facts that are not in the record and use them in their decisions, no matter how inconsequential or substantive the manufactured facts are, higher courts have an obligation to follow the United States Constitution guarantees and overturn the lower court's decision. The consequences of allowing judges to falsify facts that are not in the record for the purposes of justifying a legal decision is the courts abdication of their responsibility to the United States Constitution and thereby the creation of anarchy.

The judge is an arbiter of facts and law for the resolution of disputes and a highly visible symbol under the rule of law. Judicial misconduct occurs when a judge acts in ways that are considered unethical or otherwise violate the judges' obligations of impartial conduct. Actions that can be classified as judicial misconduct include conduct prejudicial to the effective and expeditious administration of the courts an extreme example of this is falsification of facts at summary judgment. Another example is violating mandatory standards of judicial conduct

Including judicial rules of procedure and evidence and acting outside the jurisdiction of the court. A court decision that creates facts that are not in the record unmoores courts decisions in a basis in reality or legal proceedings. Just as in criminal and quasi cases, an impartial decision maker is an essential right in civil proceedings as well. *Goldberg v. Kelly*, 397 U.S. 254, 271 (1970).

The petitioner shows that the underlying orders are void and that the Supreme Court has an obligation overturn and remand back to the trial court due to the nullified orders. The trial court was in violation of Texas Family Code Section 201.005. The petitioner filed a written objection to the referral of the case to another judge on October 27, 2016. The objection was filed on the same day the referral was received therefore it was within the required ten days. Based on this objection the presiding Judge of the 300<sup>th</sup> District court of Brazoria County, Huffstetler, should have been the judge for the trial on the merits. Judge Warren of the County Court of Law #3 presided over the trial on the merits when a timely objection was filed and lacked the power and authority to render judgment and the judgment that was rendered was void. A void judgment which includes judgment entered by a court which lacks jurisdiction over the parties or the subject matter, or lacks inherent power to enter the particular judgment, or an order produced by fraud, can be attacked at any time, in any court, either directly or collaterally, provided that the party is properly before the court. See *Wahl v. Round Valley Bank*, 38 Ariz. 411, 300 P. 955 (1931) *Tube City Mining & Milling Co. v. Otterson*, 16 Ariz. 305, 146 P. 203 (1914) *Milliken v. Meyer*, 311 U.S. 457, 61 S. Ct. 339, 85 L. Ed. 2d 278 (1940).

Judgment is a void judgment if court that rendered lacked jurisdiction of the subject matter, or of the parties, or acted in a manner inconsistent with due process. U.S.C.A. Const. Amend. 5-*Triad Energy Corp. v. McNeil*, 110 F.R.D. 382 (S.D.N.Y. 1986).

Petitioner further shows that the underlying judgments are void because the appellate court did not have jurisdiction to decide the merits of an appeal from a voided judgment. The petitioner case was a non jury trial where Judge Warren of the County Court of Law # 3 presided over the bench trial, and Judge Huffstetler of the 300<sup>th</sup> district court signed the final order on March 13, 2017 without being present at the bench trial to hear the disputed facts, the contested evidence, or the witnesses' testimonies. The trial courts judgment was rendered by a judge other than the one who presided over the bench trial and heard all evidence, therefore the judgment is void. A judgment rendered by a judge who has not heard any evidence on which the judgment is based is void. The court lacks jurisdiction to address the merits of an appeal arising from a void judgment. A void judgment is nullified. Void judgment under federal law is one in which rendering court lacked subject matter jurisdiction over dispute or jurisdiction over parties or acted in manner inconsistent with due process of law or otherwise acted unconstitutionally in entering judgment. People v. Rolland, 581 N.E. 2d 907 (III. APp. 4 Dist. 1991) Judgment is void if court that rendered it lacked personal or subject matter jurisdiction; void judgment is nullity and may be vacated at anytime. U.S.C.A. Const. Amends. 5, 14, Matter of Marriage of Hampshire P. 2d 58 (Kan. 1997).

**CONCLUSION**

This court should reconsider the denial of certiorari in this case. Petitioner respectfully requests that this court grant the petition for rehearing and order full briefing and argument on the merits of this case.

Respectfully submitted,

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**CERTIFICATE OF COUNSEL**

I hereby certify that this petition for rehearing is presented in good faith and not for delay and are restricted to the grounds are limited to intervening circumstances of a substantial or controlling effect.

A handwritten signature in black ink, appearing to read "Monica Townsend".

Monica Townsend

**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of the Petition for Rehearing was served on Victor Sturm electronically at [victor@Sturmlawfirm.com](mailto:victor@Sturmlawfirm.com), on December 18, 2019, and the transmission was successfully completed.

A handwritten signature in black ink, appearing to read "Monica Townsend". The signature is fluid and cursive, with "Monica" on the first line and "Townsend" on the second line.

Monica Townsend