No. 19-6239

IN THE

SUPREME COURT OF THE UNITED STATES

RANDELL GLEN LAWS - PETITIONER

VS.

STATE OF TEXAS - RESPONDENT

ON PETITION FOR A WRIT OF CERTIORARI TO

THE FIFTH CIRCUIT COURT OF APPEALS

PETITION FOR WRIT OF CERTIORARI

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ORAL ARGUMENT REQUESTED

QUESTION PRESENTED FOR REVIEW

Because requisite exceptions are shown and have been met in the State and Federal proceedings, regardless of styling said pleading-presented claims as §2241 or §2254, does a federal appellate court necessitate the exercise of this Court's supervisory power when, contrary to its own and this Court's precedent decisions, the appellate court decides that a petitioner/appellant has not "made a substantial showing of a constitutional right", yet said claims demonstrate proofs clearly adequate with grounds of constitutionally guaranteed rights having been violated to deserve a ruling on their merits and the constitutional rights violations claims are both properly within the appellate court and district courts' jurisdictions?

LIST OF PARTIES

All parties to the proceeding appear in the caption except the following:

United States District Court - Southern District of Texas - Houston Division

COMPLIANCE WITH RULE 33

This petition is prepared in compliance with Sup. Ct. Rule 33 page limitations and format. Same is in compliance with type/font requirements and is prepared on a Clear Tech typewriter with its factory included printwheel.

ORAL ARGUMENT

If this Court deems it beneficial and appropriate, Laws humbly requests the allowance of oral argument on his behalf for any clarification of briefing to best demonstrate the merits of Laws's claims.

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PETITION FOR WRIT OF CERTIORARI

OPINIONS BELOW

Petitioner("Laws") respectfully prays that a writ of certiorari issue to review the judgment of the United States Court of Appeals for the Fifth Circuit. The opinion appears at Appendix "A" and, to the best of Laws's knowledge, it is unpublished. (See 5th Cir. No. 17-20711). The ancillary cause numbers are 4:17-cv-01043(U.S. Dist. Court) and 99-3419(Trial Court).

JURISDICTION

The date on which the United States Court of Appeals decided my case was July 16, 2018(rec'd 7/19/18), and same was "Judgment Issued as Mandate". No petition for rehearing was filed as the appellate court precluded such. This petition was timely filed and this Court's juridiction is invoked under 28 U.S.C. § 1254(1).

CONSTITUTIONAL PROVISIONS INVOLVED

U.S.C.A. Const. Amend. 14(via protected liberty interest)

STATEMENT OF THE CASE

According to the notice received by Laws, the 5th Circuit Court of Appeals entered its "Judgment Issued as Mandate"("judgment") on July 16, 2018(rec'd on 7/19). In the judgment's first paragraph, the Court outlined Laws's presented claims with brevity and, for the most part, with accuracy except as shown in the accompanying argument. In its second paragraph, the 5th Circuit states that "Laws is entitled to a COA only if he "has made a substantial showing of the denial of a constitutional right."" And, in its third paragraph, the 5th Circuit states that "Laws has not made the showing required for COA."

Laws timely files this petition and respectfully requests this Honorable Court exercise its jurisdiction to review the appellate court's judgment and, upon finding Laws has properly presented and supported a reasonable showing that a consti-

tutional rights violation has indeed taken place, to direct its lower courts to address the merits of the claims presented. Though the numbers of incarcerated in the Texas prison system are dwindling for like-situated individuals such as myself, due to the date-of-offense that controls statutorily, there are minimally dozens and quite possibly hundreds of men and women with large amounts of sentence time that STILL deal with this totally unambiguous miscalculation of their mandatory release issue every single year and desperately need a guiding precedent decision be made.

The miscalculation of Laws's mandatory supervision release date by over fifteen (15!) years implicates his constitutional expectancy of early release that was created by Texas's mandatory supervision scheme due to the fact that Laws's mandatory supervision release date is controlled by statutes that make it NON-DISCRETIONARY and this necessarily invokes his DUE PROCESS rights and LIBERTY INTERESTS embraced within the fourteenth amendment.

When reading the "instructions" page("page 1 of 10") of AO 242 "Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241" and the Personal Information"/"decision or Action You are Challenging" on the following two pages(pages "2 of 10" & "3 of 10") from the §2241 that Laws filed, and the five dollar($5.00) fee accepted, it is sufficiently clear that Laws's claims and argument correspond precisely with the purpose of filing this habeas(See 4:17-cv-01043"Application"). In said petition, Laws's claims concern "How your sentence is being carried out, calculated, or credited", via a blatant "miscalculation of statutorily-required mandatory supervision release" and IS NOT "challenging the validity of a state conviction and sentence." (See Application; pg.3; #5 & pg.1; #2).

Regardless, at the time of Laws's discovery and attempts at state-level correction/remedy of the mandatory release miscalculation, Laws's state habeas was already exhausted, his federal habeas had received its first **two** rulings GARNERING RELIEF(but was ultimately denied) and, as shown on the Application's(§2241) page three(3) at six(6) line D, Laws's non-stop efforts at state-level were exhausted on May 10, 2016. Hence, the case at hand and this exhaustion process qualifies for the §2244(b)(2) exception in the alternative to the properly filed and argued §2241 receiving

the ruling on the merits it deserves.

The 5th Circuit has entered a decision in conflict with its own decisions on the same matter as well as conflicting with this Court and other circuit's decisions. The same is to be said for the district court under the 5th Circuit's jurisdiction. A record-demonstrates deprivation of a U. S. Citizen's(Laws's) constitutionally guaranteed rights has undeniably taken place begging this Court's rightful intercession.

REASONS FOR GRANTING THE PETITION/ ARGUMENT IN SUPPORT

The Fifth Circuit's decision to deny with sanction cause no. 17-20711 is nothing to be construed as merely incorrect, but is unreasonable and deprivative of Laws's constitutionally guaranteed Fourteenth Amendment rights to Due Process, as Laws has claimed throughout the entirety of the instant case's federal proceedings starting at 4:17-cv-01043. Laws demonstrates this fact indisputably.

The 5th Circuit's "Judgment Issued as the Mandate"("Judgment") entered on July 16, 2018, according to the notice received by Laws from the Clerk(on July 19th), states in its first paragraph the "He(Laws) argues that he is challenging the calculation of his mandatory supervision release date: that he found out a miscalculation in 2013 upon his receipt of a requested time sheet; that he could not have known about that claim before that time; that he has been diligently exhausting the miscalculation claim in the state courts since that time; and, that his mandatory supervised release date should be based upon a truncated sentence of 60 years."

As put forth by the 5th Circuit's judgment, Laws does not dispute that outline of the argument Laws presented to achieve the relief sought with the exceptions shown as follows:

1) Laws "..has been diligently exhausting the miscalculation claim..", as presented and shown in ALL of his federal pleadings filed to this time, STARTING WITH UNIT-LEVEL OFFICES authorized to correct(or assist in getting correction of) the miscalculation and ended same "..in the state courts.." and not simply starting at state court attempts; and

2) Laws vigorously insists that there be no possible improper deductions drawn from the use of the phrase "..Truncated sentence of 60 years.." which, most assuredly is the:

a) "..maximum sentence imposed.." as established by the August 1987(date of offense!) Texas Code of Crminal Procedure Art. 42.18; Sec 8(b)(See Appendix "B") parole eligibility calculation method for potentail release(everything over 60 years is calculated at 60 and 1/3 must be served=20 years).(See Ex Parte Franks, 71 S.W.3d 327 at 329; fn.1):

b) timing in which""..an inmate not under sentence of death..shall be released to mandatory supervision" when the "..Calendar time he has served plus any accrued good conduct time equal the maximum term to which he was sentenced.."(See FRANKS at 327;¶2) and "When drafting S.B.152(now art. 42.12, §15(c)), the legislature knew that a life sentence[Laws's is 99 years and is "calculable"!] was assumed to be sixty years for the purpose of determining parole eligibility. Nowhere in the statute itself or in the legislative history does any proponent of the bill suggest that the method of calculating release to mandatory supervision would be different from that for parole[maximum term=60 years], nor did any legislator propose an alternative method of calculation or indicate that there should be no method of calculation at all."(See FRANKS at 329; ¶1);

c) "Senator Meier, the author of the bill[S.B.152], stated on record in a Senate committee meeting that there would be no change in the method of calculating good conduct time, there would be no change in the people who would be eligible, and the classification system would be identical to what was in place before the enactment of mandatory supervision. S.B.152, March 15, 1977, Tape 3, Side 1. This indicates that the intent was to keep all time calculations for madatory supervision the same as they were for the parole system already in place at the time the bill was passed."(See FRANKS at 329; ¶3); and,

d) "..sixty year maximum created by Tex. Code Crim. P., art. 42.12 § 15(b).." and was undoubtedly intended to be for non-discretionary mandatory supervision

release calculations as illustrated by the Appendix "C" attached Texas Bar Journal Parole Eligibility/Mandatory Release charts provided to them for publication by the Texas Board of Pardons and Paroles so attorneys would have this information to share with all their clients.(See FRANKS at 331; ¶2 and attached Appendix "C").

It is clear that the 'One-Third Law', under which Laws was arrested/convicted/sentenced by date of offense, had an unarguable 60-year "maximum sentence or 20 calendar years" set for purposes of "Lenity" interpretation of statute for parole calculation in Section 8(b) of Art. 42.18. That phrase of "maximum sentence" is re-used in less than two(2) paragraphs(including the following subsection (c)) repeatedly and, with no further redefinitions as to how to calculate time, that leaves "Lenity" demanding the same word/phrase use to be for mandatory supervision calculation as well. Laws's 14th Amendment guarantees to Due Process are being blatantly denied, yet the 5th Circuit insists that "Laws has not made the showing required for COA" that a "denial of a constitutional right" has taken place with the exact same facts, , exhibits, and record support in front of them.

Laws's calculations for release to mandatory supervision are not under the "Discretionary-Mandatory Law"(a Texas-created ABSURDITY!), thus there is shown a thoroughly self-evident constitutionally guaranteed Due Process right having been created, implicated, and violated. Laws points to MALCHI v. THALER(211 F.3d 953), which is 5th Circuit precedent(5th Cir. 2000), and all of its sibling decisions on this mandatory supervision issue for guidance and proof that the denail of his relief as requested is rights violative, as claimed, and that reasonable jurists could and would disagree with the 5th Circuit and District Courts' resolutions of his constitutional claims.(See MALCHI at 954; hn.'s 9 & 11 and pg. 957-958). The "Rule of Lenity" judicial doctrine, utilized by Texas and federal courts alike, must control in such situations.

This is a protected Liberty Interest created by the State legislature as evinced by the commentary of the State's own legislators who enacted mandatory supervision

during their presentations in their own committee meetings.(See FRANKS at 329-31).

Laws could not possibly have brought this claim in an earlier habeas, nor does the claim challenge his conviction or assessed sentence, anyway. Laws has diligently pursued, preserved, and presented his constitutional rights claim. Fifteen-plus(15+) years is far more than de minimus harm. He has demonstrated these facts concisely. Even so, Laws is a pro se layperson and, as such, prays this Honorable Court grant this petition its liberal construction.

One further point, there is absolutely no calculation under the 'One-Third Law' statute applying to Laws's mandatory supervision release date that can LEGITIMATELY arrive at the "02/16/2043" release date("MINIMUM EXPIRATION DTE" sic) as is, and has been since 2013, the unchanging TDCJ calculation. The time earning status for Laws has not changed("S-3") since 2005 and the appendix-included chart unquestionably shows that even "Line 1" for an inmate's entire sentence yields a 36 year 6 month release to mandatory supervision with Laws's "SAT I, II, III" being 24 years. With day-for-day county time of almost two(2) years, and six(6) months at "Line 1" (Laws's first 6 months in TDCJ!), Laws still releases to his mandatory in just over twenty-five(25) years and not more than forty(40!) years as is on the included recent TDCJ time sheet.(See Appendix "B" and Appendix "D"). Laws has lost NO "Good Time Credits", nor has he had any "Major" cases to cause any lost good time.

To aid the Court's review and in support of the claims raised, Laws brings to the Court's attention the following precedential citings...Sandin v. Conner, S.Ct. 2293; Wolff v. McDonnel, 94 S. Ct. 2693; and, Madison v. Parker, 104 F.3d 765.

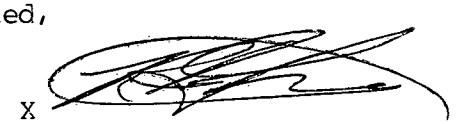
CONCLUSION

Petitioner Laws has done his best to show that the 5th Circuit has entered a decision that conflicts with its own, other circuits, and this Honorable Court's decisions on the same matter. The claim is well-supported, assuredly affects many other like-situated individuals, and accurately demonstrates a violation of a Due Process guaranteed Constitutional right via a state-created Liberty Interest couched in controlling statute for date of offense. Laws is being deprived of his rights. With like

circumstances, claims such as this have always been provided relief by the federal courts.

Therefore, Laws respectfully requests this Honorable Court exercise its supervisory authority, revers the challenged order with the imposed sanctions removed, and any other relief the Court deems just and proper. The petition for writ of certiorari should be GRANTED.

Respectfully submitted,



X Randell Glen Laws - Petitioner pro se