

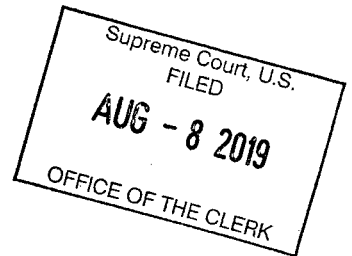
19-6328

No. _____

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES



ANTONIO LEONARD BROWN — PETITIONER
(Your Name)

vs.

LORIE DAVIS-DIRECTOR — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals, Fifth Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

ANTONIO LEONARD BROWN- #1949570
(Your Name)

264 Fm 3478 - Estelle Unit
(Address)

Huntsville, Texas 77320
(City, State, Zip Code)

N/A
(Phone Number)

QUESTION(S) PRESENTED

- 1- Does a State Constitutional violation rise to the same severity as a United States Constitutional violation?
- 2- If a majority of en banc Justices in a state's highest Criminal Court admit to mis-handling state habeas cases, what recourse do Petitioners have?
- 3- Does the Supremacy Clause of the United States Constitution as ratified by Congress still stand in force?
- 4- Does the exclusion of Black jurors, achieved by the Prosecutor's use of pre-emptory challenges, rise to a Constitutional violation?
- 5- Are the use of old felony marijuana laws that are now misdemeanors still viable to increase punishment?
- 6- Should a defendant with a low I.Q. and severe mental issues be given special consideration at trial?
- 7- Are Police Officers required under the due process clause to do a full investigation of a crime scene?

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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TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
Ex Parte Goodman-816 S.W.2d 392 (Tex. Crim. App. 1991)	- 1 Memorandum in Support
Ex Parte Dawson - NO. WR. 85, 612-02 (Tex. Crim. App. LEAGUE. Com. 2016)	- 2 " " "
Batson vs. Kentucky	- 5 " " "
U.S. vs. GALAVIZ, 645 F.3d 347, 361-62 (6th Cir. 2001)	- 6 " " "
U.S. vs. Gilcrest, 106 F.3d 297, 299-300 (9th Cir. 1997)	- 6 " " "
U.S. vs. Kirby, 921 F.2d 254, 256-57 (10th Cir. 1990)	- 6 " " "
U.S. vs. BATTAS, 236 F.3d 27, 39 (1st Cir. 2001)	- 6 " " "
U.S. Agurs, 427, U.S. 97, 96 S.Ct. 2392 (1963)	- 6 " " "
HAINES vs. KEEMEN, 404 U.S. 519 (1972) - HAINES Supra-	7 " " "

STATUTES AND RULES

42 U.S.C. § 12101 et. seq.	- 1 " " "
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TEXAS CONSTITUTION Art. V § 4(b)	- 3 " " "
TEXAS CODE OF CRIM. PROCEDURE 38.22	- 4 " " "
SENTENCING GUIDELINES Supra, Note 825	- 6 " " "
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OTHER

UNITED STATES CONSTITUTIONAL AMENDMENTS - 4 th , 5 th , 6 th , 8 th , 14 th	- 2 " "
PRESIDENTIAL PROCLAMATION (12-10-1832) SUPREMACY CLAUSE (ARTICLE VI, SEC. 2 U.S. CONST. RATIFIED BY CONGRESS-1833)	- 5 " "

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 D 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 402 to the petition and is

☒ reported at TX. Ct. of Crim. App. WR 84, 56-02 DENIED; or, 1-25-2017
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

The opinion of the 2nd Texas Ct. of App. denied 6-18-15 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 3-14-19.

☒ 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 August 11, 2019 (date) on May 30, 2019 (date) in Application No. 18 A 1231. Also correction date granted 8-15-19 to run 60 days, no later than 10-15-19.

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 1-25-2017. A copy of that decision appears at Appendix _____.

☐ A timely petition for rehearing was thereafter denied 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 10-15-19 (date) on 8-15-19 (date) in Application No. 18 A 1231.

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

- 1- The Constitutional right of a defendant to a fair and impartial trial by a jury of his peers.
- 2- Need for the jury to be aware of defendant's mental health status before trial.
- 3- Do Americans with disabilities receive Constitutional protections?
- 4- State Constitutional violations during state habeas review.
- 5- Texas Code of Criminal Procedure Article 38.22 violation.
- 6- The Constitutional right of a defendant to enter a Court-room in a complete air of innocence, till proven guilty.
- 7- Violation of Constitutional right to competent legal representation.
- 8- Veracity of Supremacy Clause of the United States Constitution concerning state and federal laws.
- 9- Due Process violations of the 4th, 5th, 6th, 8th and 14th Amendments.

Statement of the Case

On the night of March 2nd, 2014, Helen Davis and Antonio Brown shared an apartment in Wichita Falls, Texas. The exit at the back of the apartment had a very steep set of steps with a rickety hand rail that was very loose, leading to the ground. Both had been drinking and smoking dope for several days. Their normal practice was to throw the empty long neck beer bottles out the back door and not try to negotiate the steep back steps in the dark. Antonio would go out in the daylight hours and pick up the bottles and put them in the trash bin. By throwing the empty bottles out in the dark there were invariably broken bottles. Antonio would wear leather work gloves while picking up the sharp pieces in the light of day. Antonio worked at a local steak house and rode a bus to wherever he needed to go. Neither drove or owned a car. Both were M.H.M.R. patients and were seen regularly at the local Mental Health Clinic. Both received government checks on a monthly basis for their mental disabilities. Helen was a heavy crack cocaine user and was on Parole and Probation for possession. Antonio wanted to sleep on the sofa but Helen wanted more money for drugs and alcohol. Antonio gave in after numerous times of being awakened from sleep. He gave Helen a one hundred dollar bill and told her to be careful because it was so late and to bring back his change from the hundred. Helen returned and only had three dollars left from the hundred. She brought back several rocks of crack cocaine and a case of beer and a bottle of whiskey bought at a local bootlegger several blocks away. They drank all of the beer and Helen started on the whiskey. The bottles piled up on the coffee table so Antonio put the empties in a large paper shopping

Statement of the Case

bag and set them on the floor. Helen had spent all of her check money from the day before and now wanted more from Antonio. He told her no, that it was time to stop and go to bed. She got mad, grabbed the bag full of empty bottles and a $\frac{1}{2}$ full beer and went through the kitchen and started down the steep steps leading to the large trash bin at the bottom of the steps. With the bag of bottles in one hand (under her left arm) and a $\frac{1}{2}$ full beer in her right hand. She lost her balance, bumped into the loose hand rail and fell to the ground that was littered with broken beer bottles. She screamed when she landed in the broken glass. Antonio jumped up from the sofa and ran down the steps to where Helen lay. She was bleeding badly from a cut on her thigh. Antonio lifted her up in his arms and carried her up the steps into the kitchen. He sat her on a chair and grabbed a dish towel and tied it around the cut on her leg. He grabbed the phone on the kitchen wall and called 911. The E.M.T.'s loaded Helen onto a gurney and transported her to the local hospital emergency room. Officer Raines showed up and his partner in separate cruisers. Raines partner took a picture of Helen's wound and then Raines ordered everyone out of the room. He told Helen that he knew she was on Probation and Parole and that he could smell the alcohol on her breath. He then told her that someone was going to jail and was it going to be her or her boy friend Antonio Brown? She then told him a made up story to save herself from going to jail.

Antonio Brown had eight hundred and three dollars in his wallet when he was booked into jail two hours later. This fact alone disproves Helen's story against Brown.

REASONS FOR GRANTING THE PETITION

- 1- The State's complaining witness lied to keep her Parole and Probation from being revoked and being sent back to prison.
- 2- The investigating officer, Rains, denied due process of the law by not visiting the crime scene and verifying or denying Antonio Brown's story. Blood and broken glass would have exculpated Brown.
- 3- Attorney Rick Mahler talked Brown into signing away his rights by signing a stipulation to a previous charge, thus removing the State's Burden of proof.
- 4- Mahler did not do an independent investigation, and did not visit the crime scene two blocks from his office in the 14 months before trial.
- 5- Mahler did not even tell Brown when his court date was set. His bail bondsman telephoned Brown to tell him his trial date.
- 6- Trial Counsel did not object to the racial make up of Brown's jury. He did not ask for a jury shuffle to correct the Batson issue.
- 7- Counsel did not ask for a medical doctor or pathologist to testify to the ability of broken glass to slice flesh like a surgical scalpel.
- 8- Mahler did not object to the State's chief witness being seen repeatedly talking to and having lunch with a sitting jury. Nor did Mahler ask for a mis-trial.
- 9- Mahler did not object to the Prosecutor and his investigator taking photos of the crime scene during a court break and did not object to the vastly different cleaned up scene being entered during trial in violation of evidentiary rules requiring a 10 day advance notice of evidence before the trial begins. Not in the middle of the trial. The accident or event where Helen Davis fell down the back steps into a pile of broken glass was 14 months before this illegal move by the Prosecutor. Rick Mahler allowed it without objection.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Antonio Leon D. Buan

Date: October 5th, 2019