

19-6954  
No. \_\_\_\_\_

IN THE  
SUPREME COURT OF THE UNITED STATES

ORIGINAL

Jerry Scott Camp Jr. — PETITIONER  
(Your Name)

vs.

Supreme Court, U.S.  
FILED

DEC 06 2019

OFFICE OF THE CLERK

State of Texas — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

The Fifth Circuit Court of Appeals for the United States in New Orleans  
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Jerry Scott Camp Jr. 1645381  
(Your Name)

2661 FM 2054  
(Address)

Tennessee Colony, TX 75884  
(City, State, Zip Code)

None

(Phone Number)

**QUESTION(S) PRESENTED**

1. Should an inmate, who has shown that he was prevented by the Department of Corrections (the State) from timely filing his Sec. 2254 petition, and has shown evidence that he suffers from a debilitating medical condition/disability that prevents him from writing, be entitled to equitable tolling due to these extraordinary circumstances?
2. Under the circumstances and the facts of the situation, should the Fifth circuit court of appeals have granted the petitioner's COA?

## 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:

## RELATED CASES

State of Texas v. Jerry S. Camp Jr., No. F-2009-2053-E, 367th District Court of Denton County, Texas. Judgment entered May 3, 2010.

Camp v. State, No. 02-10-00252-CR, Second Court of Appeals in Fort Worth Texas Judgment entered November 10, 2011.

Ex Parte Jerry Scott Camp Jr., No. WR-79,610-01 in the Court of Criminal Appeals in Austin, Texas Judgment entered on June 6, 2013.

Jerry Scott Camp Jr. v. Davis, No. 4:16-CV-00165, in the U.S. District Court for the Eastern District of Texas, Judgment entered on November 21, 2018.

Jerry Scott Camp, Jr. v. Lorie Davis, No. 18-41166 in the Fifth Circuit Court of Appeals in New Orleans. Judgment entered September 27, 2019.

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**APPENDIX A** Order: Denial of COA, 5th Circuit. No. 18-41166 (9-27-2019)

**APPENDIX B** Order of dismissal, Doc. No. 27-1, U.S. Dist. Court, Sherman Division, No. 4-16-CV-0165 (11-21-2018)

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## **TABLE OF AUTHORITIES CITED**

<b>CASES</b>	<b>PAGE NUMBER</b>
Holland V. Florida, 560 U.S. 631 (2010)	

## **STATUTES AND RULES**

28 U.S.C. Sec. 2254

28 U.S.C. Sec. 2244

## **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 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 B 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 \_\_\_\_\_ 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 \_\_\_\_\_ 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 Sept. 27, 2019.

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 \_\_\_\_\_. 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 \_\_\_\_\_ (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**

28 U.S.C. Sec. 2244 (d)(1)(B)

(1) A one year period of limitations shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the final judgment of a state court. The limitations period shall run from the latest of:

(B) The date on which the impediment to filing an application created by state action in violation of the Constitution or laws of the United States is removed, if the applicant --- was prevented from filing by such state action;

(Now Sec. 2244 (d)(1)(A)) ?

## STATEMENT OF THE CASE

While Petitioner's State habeas was still pending in state court, the Petitioner was moved to the Estelle Unit for medical care regarding his disabling condition (Dupuytren's Contractures) in his hands, and for Hepatitis C treatment.

The Duyuytren's contractures have prevented the Petitioner from writing and when he does it is often painful and illegible. When he was onthe Coffield Unit, he had the assistance of a writ-writer who assisted him in filing his state habeas and would have assisted him on filing the Federal habeas had he been on the unit when the state habeas was denied and when/before the federal writ was due.

While at the Estelle unit, the State habeas was denied and the Petitioner was unable to get the assistance he needed from another writ-writer at the unit, the law library, the unit warden or the State Counsel for Offenders in time to timely file his federal habeas petition. This is a state imposed impedement that prevented the Petitioner from timely filing his federal habeas application.

For these reasons he has asked for and feels he is entitled to, equitable tolling of the time he was at the Estelle unit. This under Holland v. Florida, 560 U.S. 631, 645 (2010) and 28 U.S.C. Sec. 2244 (d)(1)(B).

As, once the Petitioner was sent back to the Coffield Unit he obtained the assistance of the writ-writer who originally helped him file his state habeas to help him file his federal habeas. The time that should qualify for equitable tolling is from the time he received notice that the State habeas was denied (June 12, 2013) until he diligently filed his Federal habeas application on (February 16, 2016) as this was the fastest he could have filed it under these circumstances.

The U.S. District Court denied his writ application as untimely on November 21, 2018 and Petitioner filed a COA with the Fifth Circuit court of appeals who denied the COA on September 27, 2019.

## REASONS FOR GRANTING THE PETITION

While the Petitioner was at the Estell Unit, his State habeas application was denied (June 12, 2013) he tried to obtain the assistance of the law library, whom he sent I-60 requests for assistance (See USDC Habeas Exhibit H) and I-60's to the Unit Warden, the State Counsel for Offenders as well as trying to obtain the assistance of other writ writers onthe unit. (See Exhibit H, USDC Habeas Record)

He was unable to obtain assistance though he diligently attempted to timely seek the assisatance of others to timely file the federal writ while at the Estelle unit. Only upon returning to his original unit, Coffield, where he was assisted with his State habeas, was he able to prepare and file, quickly, his Federal habeas application. (See argument in support of tolling filed in the U.S.Dist. Court).

Petitioner had been transferred to the Estelle Unit for treatment on his hands for Dupuytren's Contractures, which prevented him from writing, and hepatitis C treatment. When he received notice that the State Courts had denied his state habeas application, he set out to obtain the assistance of the law library onthat unit, and was flatly denied assistance. (See USDC Habeas Exhibit H) . He wrote to the Unit warden, the state counsel for offenders and sought out other writ writers on the unit. All of which were not willing to assist him in filing his federal habeas petition. (USDC Habeas Exhibits H).

Because the Petitioner was diligent in attempting to file his federal 2254 and has shown proof that he was disabled, in treatment, on an unfamiliar unit and was unable to write the writ himself at that time, and because the timeing that the state chose to send him for treatment subsequently fell during the denial and the pendency of his federal writ, was beyong the control of the Petitioner. He has shown proof of disability, the need for assistance, that he was away from help that he previously had in place and diligence in trying to prepare and file his federal writ petition, he is due tolling becuase of extraordinary circumstances

in this case. The State imposed impediment was imposed when the Estelle Unit Law Library, the Unit Warden, the State Counsel for Offenders and others refused to assist the Petitioner in preparing and filing his federal writ application at the Estelle Unit. This imposed restriction was removed once the Petitioner was returned to the Coffield Unit and was able to obtain the assistance of the original writ writer who had helped his previously to file his federal writ application.

Knowing that he was untimely, the Petitioner argued and attempted to show that he was prevented from timely filing for the reasons argued to the District Court who, Petitioner feels, failed to take into account the various circumstances and his diligent attempts to timely file, in making its decision regarding whether to grant equitable tolling or not. Petitioner has shown that in his state trial he was denied the effective assistance of counsel, and most importantly, that the arresting officer lied on the stand, the Prosecution knew about it and covered it up, and that the missing evidence was available as the officer had checked it into evidence two days after the Petitioner's arrest. Yet, at trial, testified that it (the incar camara footage) did not exist. (See State habeas record).

Thus, Petitioner's substantial rights were violated, as this incar camara footage contained mitigating evidence on it and evidence of police misconduct.

Thus, under Sec. 2244(d)(1)(B) and *Holland v. Florida*, (560 U.S. 631, 645 (2010) the Petitioner has shown that he was prevented from timely filing his federal writ application and that he was indeed diligent at attempting to do so. For these reasons and the above case law and statute, he is entitled to equitable tolling therefore making his federal habeas application timely filed.

Certiorari should be granted because the variable situations and circumstances that a litigant in prison are exposed or subjected to does not take into consideration that the Federal Courts have a strict time line to follow for filing documents. This variation in circumstances and facts should always be taken into account when a federal district court makes a determination regarding an inmates late filing,

especially when he has shown arguable factors and circumstances that are out of his control which may entitle him to the flexibility of the federal district court to grant equitable tolling. Many an inmate has found them selves in a situation where they were unable to find help in puting to gether a writ or federal petition in a timely manner, as many writ writers do not take on writs over night, especially when the offender is not a resident on that unit. This, ultimately forces many inmates to forfiet their federal writs because there is simply not enough time to get it prepared, find help, and file it. This Court should help to alleviate this problem by allowing for a more reasonable consideration of and application of, equitable tolling when the circumstanes and situations allow the district court to grant it.

There needs to be a reasonable test, procedure or rule in place for situations like this that would allow an inmate to apply and be granted equitable tolling. When prison systems don't care about assisting an inmate in the preparation of their legal challenges, which this court has stated they must do, but they don't, the last ditch attempt left is to ask for, if the circumstances support it, for equitable tolling. But If the district courts are unwilling to consider all the circumstances and actions on the part of the inmate regarding his request for equitable tolling this option is just another one that is out of reach for many an offender.

Petitioner would ask this Court to grant Certiorari in this case to put in place a method or procedure in which the inmate who is in this type of situation has at least a chance of obtaining equitable tolling when he has no other options in his quest to protect his Constitutional rights.

## **CONCLUSION**

The petition for a writ of certiorari should be granted.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Doug S. Clegg". The signature is fluid and cursive, with a horizontal line drawn underneath it.

Date: December 4, 2019