

19-7203 ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES

Supreme Court, U.S.
FILED

JAN 03 2023

OFFICE OF THE CLERK

Arthur Luther McKinney

— PETITIONER

(Your Name)

vs.

Lorie Davis, Director of TDCJ

— RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Fifth District Court

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Arthur Luther McKinney

(Your Name)

2900 South County Road 1200

(Address)

Midland, Texas, 79706

(City, State, Zip Code)

432-634-6882

(Phone Number)

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~ **QUESTION(S) PRESENTED**

1. When you work for someone and they give you something for that work does it not belong to you?
2. Does the Texas Department of Criminal Justice not have to give me some kind of due process before taking away what they gave to me for working for them?
3. Since I am still being supervised by TDCJ upon my release from prison under the same case number would that not mean I am still in their custody and leave a 2254 Habeas Corpus Writ to challenge that custody if I felt it was illegal?

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:

Lorrie Davis, Director
Texas Department of Criminal Justice

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TABLE OF AUTHORITIES CITED

CASES

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See reasons for granting the petition below.

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 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☒ is unpublished.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☒ is unpublished.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 n/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 _____ court appears at Appendix n/a 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 September 5, 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 January 3, 2020 (date) on Decemberrn13, 2019 (date) in Application No. 19 A 668.

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 n/a.
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

8th Amendment

14th Amendment

STATEMENT OF THE CASE

The District Court simply denied my Habeas action stating that I was wrong to claim I had a protected liberty interest in what the Texas Department of Criminal Justice gave me for working for them.

The Fifth Circuit denied my appeal to them stating that my case was now moot and they lacked jurisdiction, because I was released from prison on supervised release.

REASONS FOR GRANTING THE PETITION

Below are my reasons for asking the Supreme Court to grant me a Writ of Certiorari. Although the two lower court orders give different reasons for the denial of my petition, they fall under the same constitutional issue here. Do I not have a protected Liberty interest in what I have earned and been compensated for by working for the Texas Department of Criminal Justice and required some sort of due process before it can be taken from me?

I totally understand and agree that when you break the law you must pay the price for it. I also, understand that when you are sent to prison you have no constitutional right to be paid for working while in prison, but many states still do as an incentive to inmates to do good work and stay out of trouble. For instance, Oklahoma pays inmates so much a month and gives them good time off their sentences that an inmate gets to keep for working and good behavior.

Most of Texas prisons work their inmates and make a profit off them through their labor. If you do not work for them, they will make your time very hard to do.

As it is stated above that there is no Constitutional right for inmates to be paid for their work, but for years Texas Department of Criminal Justice has given inmates good time and work time that at one time had little meaning to it when they had there mandatory supervision law in effect, before September, 1996, but even then they took back all the good time and work time that they gave inmates for working, with no due process of any kind.

Now since September 1, 1996, when they changed their "Mandatory Supervision Law" to "Discretionary Mandatory Supervision" they have made the good time and work time they give inmates totally meaningless. Everything is to Texas Department of Criminal Justice discretion now. So, you can have 300% of your time done now on your timesheet and it means nothing. Everything is totally up to what they decide they want to do.

Since there is no constitutional right to be paid for working in prison, I would have to accept going to prison and receiving nothing for the work i was compelled to do, but as it is when the state off Texas has made a decision to set up a system for inmates to have more of an incentive to work better and behave better by giving them work time and good time and the inmate receives this good time and work time for doing a good job, then this is when it becomes a constitutional issue.

If the state of Texas tells its inmates if they behave well and work well they will get whatever kind of good time they are eligible for and the inmate does what is expected of him and receives the good time and work time on his timesheet, how under the constitution could the state of Texas decide to just take all the good time and work time an inmate has earned without any due process at all behind it.

If the state of Texas does not want to give inmates an incentive to work better and do better, they should not give good time and work time as compensation for working for them. Once the state of Texas made a choice to give their inmates good time and work time for a job well done then the 14th amendment would become effective. Even though inmates do not have a constitutional right to be paid for working in prison, if the state decides to go ahead and compensate them for having good behavior and working well then it belongs to the inmate and before the state can take it back, once the inmate has received it the state should have to give the inmate some sort of due process, before taking what the inmate has earned.

It is cruel and unusual to give an inmate good time and work time and let him think he is going to get something out of the work he is doing, then later for him to find out it is meaningless. This is an eighth amendment constitutional violation. This is cruel and unusual punishment.

When the Fifth Circuit denied my motion for COA stating my appeal was moot and they lacked jurisdiction, they were wrong.

I am still under the same case number I was in prison for, I am still reporting to TDCJ employees. I still pay my fees every month. Therefore, I am still in Texas Department of Criminal Justice custody until I am discharged from the ten- year sentences I am doing.

If I am being held to supervised release by TDCJ illegally, because I should be done with my sentence with good time and work time I have earned. I would have to seek relief under 28 u.s.c. 2254 habeas action. Therefore, for the Fifth Circuit Court of Appeals would still have jurisdiction over my case.

This is very important issue to thousands of offenders who the Texas Department of Criminal Justice does this to every year.

The due process clause of the 14th Amendment is exactly like a similar provision in the 5th amendment which only restricts the federal government. It states that no person shall be "deprived of life, liberty, or property without due process" of law. Due process refers to fair procedure.

Even though, the Texas Department of Criminal Justice did not have to, they gave me good time and work time for staying out of trouble, not causing any problems, and doing a good job at work. Once it was put on a time sheet with my name on it, it became my property.

The 14th amendment is clear in stating that no person, including offenders shall be "deprived of life, liberty or property without due process of law".

The 14th amendment makes it clear that I am entitled to due process before the Texas Department of Criminal Justice can take away what I have earned. If they did not want me to have it, they should not have given me a chance to earn it. Now that I have it, it belongs to me.

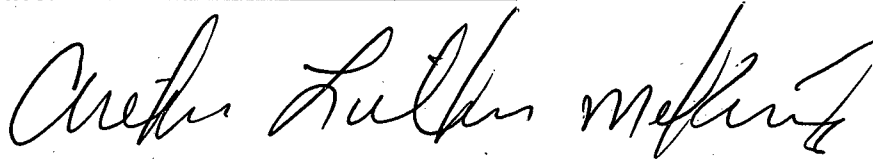
CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Arthur Luther McKinney

Date: January 2, 2020

A handwritten signature in cursive script, reading "Arthur Luther McKinney". The signature is written in dark ink and is positioned below the printed name and date.