

NO.19-7576

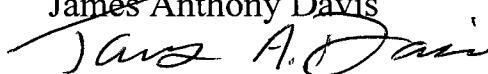
**IN THE
SUPREME COURT OF THE UNITED STATES
October Term 2019**

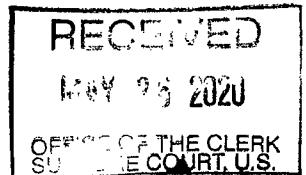
**JAMES ANTHONY DAVIS
Appellant-Petitioner**

vs.

**BRAZORIA COUNTY, CITY OF ANGLETON,
Respondent**

**PETITIONER'S MOTION FOR REHEARING OF IT'S DENIAL
OF PETITION FOR WRIT OF CERTIORARI**

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IN THE
SUPREME COURT OF THE UNITED STATES

JAMES ANTHONY DAVIS
Appellant-Petitioner

VS. **No. 19-7576**

BRAZORIA COUNTY, CITY OF ANGLETON, et al
Respondent

**PETITIONER'S MOTION FOR REHEARING OF ITS
DENIAL OF PETITION FOR WRIT OF CERTIORARI**

TO THE HONORABLE JUSTICES OF THE COURT:

COMES NOW, JAMES ANTHONY DAVIS, APPELLANT

PETITIONER in the above entitled and numbered cause and files this Motion for Rehearing of the Court's denial of Appellant's Petition for Writ of Certiorari and in support thereof would show the following:

I.

Appellant/Petitioner seeks rehearing pursuant to Supreme Court Rule 44.

The Court denied Appellant's Petition for Writ of Certiorari on March 30, 2020. Therefore this request is within the twenty-five days set out in said rule, and is

therefore timely. Because the Court provided no basis for said denial, Appellant is unable to urge a basis or argue any point of law in opposition to the denial. However, Appellant raises the following bases for rehearing:

II.

The grounds for seeking a rehearing in this matter is that this case has constitutional implications for all citizens subject to taxation by any taxing authority.

1. Pursuant to the **United States Constitution**, a property owner may not be subject to losing his property [be deprived of] his property, without due process of law, as in the instant case.
2. Retroactive application of any law nor statute shall be applied to a person which would result in a loss of land for a period of time in which he was not the property owner.
3. The attorney for the taxing authority flagrantly misused his position and that of the county to institute a proceeding which was not legally cognizable at law, with respect to one year and continues in the pursuit of same, which constitutes an abuse of power.

III.

Appellant has already asserted that he was not the property owner on

January 01, 2012. Pursuant to the **Texas Tax Code** § Section 32.07:

(A)[P]roperty taxes are the personal obligation of the person who owns or acquires the property on January 1 of the year for which the tax is imposed....

In addition to not being the owner of the property on January 01, 2012, he was also a minor having just turned seventeen several days prior, as he was born on December 18, 1995. Pursuant to the **Texas Civil Practices and Remedies Code** §129.001, a child does not reach the age of majority until he is eighteen years of age. A minor may only sue to remove the disabilities of minority at the age of seventeen pursuant to the **Texas Family Code** §31.01. Appellant contends that his status as a minor prevented his being sued for property taxes for the year 2012.

Now Respondent Brazoria County seeks to sell Appellant's land even though the taxes have now been paid twice. Appellant contends that same constitutes a violation of his rights as guaranteed by the **Texas Constitution** art 1, § 19 and the **United States Constitution**, Amendment Fourteen, which prohibits depriving a citizen of land without due process of law.

Texas Constitution art 1, § 19 provides that:

Sec. 19. DEPRIVATION OF LIFE, LIBERTY, PROPERTY, ETC. BY DUE COURSE OF LAW. No citizen of this State shall be deprived of life, liberty, property, privileges or immunities, or in any manner disfranchised,

except by the due course of the law of the land.

The Fourteenth Amendment to the **United States Constitution** provides in pertinent part that:

.....No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

In **R. Communications, Inc. v. Honorable John Sharp**, 875 S.W.2d 314, 315 (Tex. 1994), the Texas Supreme Court stated:

In *Eustis v. City of Henrietta*, 90 Tex. 468, 39 S.W. 567, 569 (1897), we held that a statute requiring tax payment as a precondition to defending title to property against a claim of title under a tax sale violated both sections 13 and 19 of the Texas Bill of Rights. On subsequent appeal, we again held "that the owner [of property subject to a tax levy] could not be required to pay the taxes as a condition precedent to making the defense" against the claim of title. *Eustis v. City of Henrietta*, 91 Tex. 325, 43 S.W. 259, 262 (1897).

IV.

Appellant contends that the arbitrary nature of the application of the law resulting in the misapplication of a tax is an abuse of power. Appellant has found only an income tax case which indicates that an arbitrary graduated method of imposing taxes is an abuse of power. The Court in **Frank Brushaber v. Union Pacific Railroad Company**, 240 U.S. 1, 36 S.Ct. 236, 60 L.Ed. 493 (1916)

insisted that “although there be no express constitutional provision prohibiting it, the progressive feature of the tax causes it to transcend the conception of all taxation and to be a mere arbitrary abuse of power which must be treated as wanting in due process.”

V.

Sale of Appellant’s property was scheduled for May 5, 2020, but was postponed due to CoVid-19. Appellant is not working due to same. The Brazoria County court scheduling is unknown, as the courthouse is operating only on a limited basis, with no notice of what judge is sitting at any given day nor the hours when any judge is on the bench.

Therefore, once again, Appellant urges this Court to reconsider this matter as the denial will result in the loss of his homestead, which constitutes an unlawful deprivation of rights by the taxing entities because Appellant was not the owner of the property and was a minor in 2012, the relevant time period for which Brazoria County sought action against him.

WHEREFORE PREMISES CONSIDERED, Appellant/Petitioner prays that this Court reconsider and grant this Motion for Rehearing and grant its Petition for Writ of Certiorari. Appellant further prays that this Motion be considered *informa pauperis*, as his previous Petition for Writ of Certiorari was so

filed.

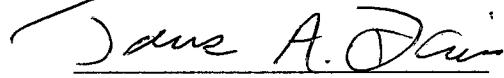
Respectfully submitted,



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CERTIFICATE

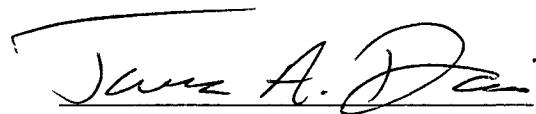
The grounds are limited to intervening circumstances of substantial or controlling effect or to other substantial grounds not previously presented. This Motion for Rehearing is presented in good faith and not for purposes of delay.



James A. Davis

CERTIFICATE OF SERVICE

I hereby certify that this document shall be sent by electronic submission through email on the 23rd day of April, 2020 to Michael Darlow of Perdue, Brandon, Felder, Mott and Collins at 1235 North Loop West, Suite 600 ,Houston, Texas 77008 by email or Certified Mail.



James A. Davis

CERTIFICATE OF COMPLIANCE

I hereby certify that this brief complies with the Supreme Court Rule 33(d).

The document contains 979 Words, 54 sentences, 95 lines, 16 paragraphs, and 5 pages and was prepared in Century 725BT font.


/s/ James A. Davis