

**19-7691**

---

IN THE SUPREME COURT OF THE UNITED STATES

October Term of 2019

---

In Re WILBERT NORWOOD STARKS, Petitioner Pro-se

---

ON PETITION FOR WRIT OF MANDAMUS  
TO THE SUPREME COURT OF TEXAS

**ORIGINAL**

---

PETITION FOR WRIT OF MANDAMUS

Authorized by 28 U.S.C. Sec. 1651(a)

FILED

FEB 11 2020

OFFICE OF THE CLERK  
SUPREME COURT, U.S.

Submitted by:

Wilbert Norwood Starks

5317 Tate Ave.

Plano, Texas 75093

Tele. # 214-3346517

Email :W.norwoodstarks @yahoo.com

## QUESTION (S) PRESENTED

1. **WHETHER the County Court abused its Discretion and violated Due Process Under the Fourteenth Amendment and Rule 13, Tex. Rule of Civil Procedure; and Chapter 10, Tex. Civil Practice and Remedies Code in Awarding Sanction and Attorney Fees against Petitioner, "WHERE THE COURT WAS WITHOUT AUTHORITY TO AWARD THE SANCTION" And said Action was Frivolous, Unreasonable, without Foundation, with "NO EVIDENCE " support. Further Constitute a Violation of Equal Protection Clause.**
2. **WHETHER The County Court Abused its Discretion and Violated Due Process Under the 14Th. Amend.where it Displayed deep-seated Favoritism or Antagonism toward Respondent And Displayed Clear Evidence of Bias and Prejudice against Petitioner During Proceeding That Recusal under 28 U.S.C. Sec. 455 (a & b ) and Sec. 144 were required. Such Source Factors made Fair Judgment Impossible and Unreliable Requiring the Sanction to be Vacated And VOIDED. Because such Constituted a Violation of the Equal Protection clause also.**
3. **WHETHER the County Court Grossly Abused its Discretion and violated Due Process and Equal Protection Clauses of the Fourteenth Amendment when it assessed Sanction and Attorney Fees Against Petitioner where the Court was without Jurisdiction under Rule 13 and Chapter 10, In Violation of MANTRI V. BERGMAN, 153 S.W. 3d 715 (Tex. App. 2005) and MARTIN V. Tex. Dept. of Family & Protective Servs. , 176 S.W. 3d 390 (Tex.App. 2004).**

**List of all Parties and Counsel at The Court  
Whose Judgment is Sought to be Reversed**

**Petitioner**

**In Re Wilbert Norwood Starks  
5317 Tate Ave.  
Plano, Texas 75093 Pro-se**

**Respondents**

**Robert J. Davis, Attorney  
8131 LBJ Freeway Suite 700  
Dallas, Texas 75251**

**JODY PRIVETT # 1374  
Arresting Police Officer  
Plano, Texas - Collin County, Texas**

**Hon. Dan K. Wilson, Judge  
---who issued Sanction  
County Court At Law #5  
2300 Bloomdale Suite 2106  
McKinney, Texas 75071**

**Hon. Barnett Walker,  
Judge County Court At Law # 2  
2100 Bloomdale Suite 10344  
McKinney, Texas 75071**

## TABLE OF CONTENTS

Questions Presented .....	i
List of all parties and counsel at the court whose judgment is sought to be reversed .....	ii
Contents of Appendix .....	iv
Table of Cited Authorities .....	vi -vii
 A. Opinion / Orders below .....	 1
1 . The unpublished Order of the Supreme Court of Texas dated October 04, 2019 denying motion for rehearing.	
B. Statement regarding Jurisdiction .....	1-2
C. Statutory Provision at issue .....	vii, viii, ix
D. Constitutional Provisions at issue .....	_____
E. Statement of the case .....	_____
F. Procedural History .....	_____
G. Discussion regarding timeliness .....	_____
H. Argument in favor of issuing a Writ .....	_____ 3-14
 Question one restated .....	 3
 I. Question two restated .....	 7
J. Question three restated .....	9
K. Disposition of the court below .....	_____
L. Discussion of Arguments and Authorities .....	_____
M. Prayer for Relief .....	14

## CONTENTS OF APPENDIX

- A. The unpublished Order of the Supreme Court of Texas--dated October 04, 2019. Denial of Motion for Rehearing. and Rehearing en banc.
- B. The unpublished order of the Supreme Court of Texas Dated 08-15, 2019 Granting Motion for Extension of Time to file a Motion for Rehearing ;
- C. The unpublished Order of the Supreme Court of Texas denying Petition For Writ of Mandamus-- dated , July 26, 2019 ;
- D. Motion in objection to County Court's Order granting sanction and Attorney fees-- dated March 04, 2019 in Cause No. 005-03474-2018
- E. County Court's Order Granting Sanction February 19, 2019 ;
- F. Justice of the Peace Order and Judgment , dated -October 11, 2018 Trial Court Case No. 32 SC -18-146 ;
- G. Dallas , Texas Trial Court Order of DISMISSAL Dated September 12, 2017, in Cause No. C-09215183 01. ;
- H. Traffic ticket for speeding , November 23, 2001 No. C-09215183 01 ;
- I. Texas Code of Judicial Conduct, canon #1, #2, #3, (1-4)

## TABLE OF CITED AUTHORITIES

1. Baker Life and Casualty Co. V. Holland, 346 U.S. 376 ( 19 \_\_\_\_)- \_\_\_\_\_
2. Cheney V. United States Dist Court For D. C. 542 U.S. 367 2004 , 334 F.3d 1096 -----
3. Decatur V. Paulding, 39 U.S.(1 pet ) 469, 514 (1840) -----
4. Ex Parte U.S. 242 27, S.ct. 72 (1916 ) -----
- 5 Gentry V. Bowser, 2 Tex. Civ. App. 388, 21 S.W. 569 (Fort Worth 1893) -----
6. Glass V. Pfeffer, 657 f. 2d 252 (10 Cir. 1981) -----
7. In Re Aetna Casualty and Sur. Co., 919 F. 2d 1136 (6 Cir. 1990) -----
8. In Re Anter, 71 F. 3d 97 (3d. Cir. 1995 ) -----
9. In Re Murchison , 349 U.S 133 ( 19 55) -----
10. In Re Volkswagen of am. 545 F. 3d 304 (5th cir 2008) -----
11. Jackson V. Virginia, 443 U. S. 306 (1979) -----
- 12 Johnson V . Allyn Bacon Inc. ,731 F. 2d 64 (1st. Cir 1984 ) -----
13. Liljeberg V. Health Service Acquisition Corp. 486 U.S. 847 (1988) -----
- 14 Liteky V. United States, 510 U.S. 540 (1994) -----
- 15 Mantri V. Bergman, 153 S.W. 3d 715 (Tex App Dallas 2005) -----
- 16 Martin V. Tex. Dept. of Family & Protective Service 176 S.W. 3d 390 (Tex. App. 2004)--
- 17 Marcusi V. Stubbs, 408 U. S. 204 (1972). \_\_\_\_\_
18. McClure V. Ashcroft, 335 F. 3d 408 (5th cir 2003) -----
19. Morrissey V. Brewer, 408 U.S. 471 (1972) -----
20. Ohio V. Roberts, 448 U.S 56 (1980) -----
- Case Authorities Continue
21. Pashain V. Eccleston Property Inc., 88 F. 3d 77 (2d. Cir \_\_\_\_\_)
22. Schlagenhauf V. Holder, 379 us. 104 (1964) -----

23. State Bar of Texas V. Gomez, 891 S.W. 2d 443 (1994)	_____
24. Tex. Dept of Park & Wildlife, V. Maranda, 133 S.W.3d 21 (2014)	_____
25. United States Alkali Expert Assn . V. United States , 325 U.S. 196 (1945 )	_____
26 United States V. Denson, 603 F. 2d 1143 (1979)	_____
27. U. S. V. Jordan, 49 F. 3d 152 (5th cir 1995 )	_____
28. U. S. V. Mizell, 88 F. 3d 288 (5th cir 1996) cert. Denied	_____
29. U.S. V. Young, 39 F. 3d 1561 (11 cir. 1994)	_____
30. Wilbert V. United States , 281 U.S. 206 (1930)	_____

#### Federal Constitution

Fourth Amendment . . . . .	_____
Fifth Amendments . . . . .	_____
Sixth Amendment . . . . .	_____
Eighth Amendment . . . . .	_____
Fourteenth Amendment . . . . .	_____

This case involves 28 U.S.C. Section 1651 (a) . . . . .

1. This case involves 28 U.S.C. Section 144 . . . . .

This Case involves 28 U.S.C. Section 455 (a) & (b) . . . . .

Table of Cited Authorities Continue . . . . .

Texas Cases	pages
-------------	-------

Manti V. Bergman, 153 S.W. 3d 715 (Tex App. Dallas 2005) . . . . .	_____
Martin V. Tex. Dept. of Family and Protective Service, ..... 176 S. W. 3d. 390, Tex.App.Hou.2004).. ...	_____
Parker V. Walton, 2343 S.W. 3d 535 (Tex. App. Hou. 2007) . . . . .	_____

Texas Statutes and Codes Canon #1, #2, and #3, -Texas Code of Judicial Conduct

Code of Criminal Procedure Article 12.02 . . . . .	_viii_
Texas Civil Practice and Remedies Code, Chapter 10 . . . . .	viii, ix .
Texas Rule of Civil Procedure, Rule 13 . . . . .	.....

#### H. STATUTORY PROVISIONS AT ISSUE

1. This case involves Article 12.02 (b), Texas Code of Criminal Procedure, which provide (b) A complaint or information for any Class C misdemeanor may be presented within Two (2) years from the date of the offense not afterwards. Id. Vernon ann.2005.

2. This case involves Rule 13, Texas Rule of Civil Procedure: Rule 13, authorizes the imposition of Sanction against attorney, a represented party or Both, WHO FILED A PLEADING (lawsuit) that :

1. Groundless and brought in bad faith; or
2. Groundless and brought to harass;

This case involves Chapter 10 of the Texas Civil Practice and Remedies Code. Chapter 10, Sanctions frivolous pleading and motion SECTION 10.001. Signing of pleadings and motions. The signing of a pleading or motion As required by the Texas Rule of Civil Procedure constitutes a certificate by the Signatory, that to the signatory's best knowledge, information and belief, formed After a reasonable inquiry ; (1) The pleading or motion is not being presented for any improper purpose, Including to harass or to cause unnecessary delay or needless increase in costs of litigation (2) Each claim, defense, or other legal contention in the pleading motion is Warranted by existing

3. laws or by a no frivolous argument for the extension , Modification , or reversal of existing



4. laws or the establishment of new laws. (3) Each allegation or other factual contention in pleading or motion has evidentiary support or, for a specifically identified allegation or factual contention, is likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) Each denial in the pleading or motion of a factual contention is warranted on the evidence or, for a specifically identified denial, is reasonable based on a like of information or belief. Id. Acts 1995, 74th. Leg., ch. 137.
5. SECTION 10.002- Motion for Sanctions (a) -A person may make a motion for Sanctions describing the specific conduct violating Section 10.001; (b) The court on its own initiative may enter an order describing the specific conduct that appears to violate ~~the~~ Section 10.001 and direct the alleged violator to show cause why the conduct has not violated that section. (c) the court may award to a party prevailing on a motion under this section the reasonable expenses and attorney fees incurred in presenting or opposing the motion, and if no due diligence is shown court may award to the prevailing party all costs for inconvenient harassment, and out-of-pocket expenses incurred or caused by the subject litigation. Id.
6. Section 10.003-- NOTICE AND OPPORTUNITY TO RESPOND--- The court shall provide a party who is the subject of a motion for Sanctions under Section 10.002 notice of the allegations and a reasonable opportunity to respond to the allegations. Id.
7. Section 10.004.---Violation , Sanctions. (a) A court that determines that a person has signed a pleading or motion in violation of Section 10.001 may impose a sanction on the person, a party represented by the person or both; (b)-- The Sanction must be limited to what is sufficient to deter repetition of the conduct or comparable conduct by others similarly situated. (c) A sanction may include any of the following; (1) a directive to the violator to perform , or refrain from performing, an act; (2) An order to pay a penalty into court; and (3) an order to pay to the other party the amount of the reasonable expenses incurred by the

other party because of the filing of the pleading or motion , including reasonable attorney fees.

SECTION 10.005. ORDER: A Court shall describe in an order imposing a sanction Under this chapter the conduct the court has determined violated Section 10.001 and explain the basis for the sanction imposed. Id . This case involves CANON #1, #2, and #3, Texas Code of Judicial Conduct.

NO. \_\_\_\_\_

---

IN THE SUPREME COURT OF THE UNITED STATES

October Term, 2019

---

In Re WILBERT NORWOOD STARKS,—Petitioner Pro-se

---

PETITION FOR WRIT OF MANDAMUS  
TO THE SUPREME COURT OF TEXAS

---

PETITION FOR WRIT OF MANDAMUS

Authorized by 28 U.S.C. Sec. 1651 (a) -Rule 20

---

Opinions/ Orders Below: The Unpublished Order of the Supreme Court of Texas, dated October 04, 2019 Denying motion for rehearing, and Rehearing en banc. see Exhibit A in the Appendix

Statement regarding Jurisdiction : This Court has Jurisdiction over the Petition pursuant to 28 U.S.C. Sec.1651 (a) , Pursuant to Rule 20, The all writ Act of 1789—.This Petition will be in aid of the Court's Appellate Jurisdiction. As by error Petitioner Petition for Writ of Certiorari was held to be one (1 ) day late And 28 U.S.C Sec. 1257 (a), as the Opinion of the Supreme Court of Texas is the final Judgment rendered by the State Court of Texas regarding Petitioner's effort to seek a just and proper review as the County Court was without authority to award Sanction against Petitioner , such Court was without Subject matter jurisdiction;

without jurisdiction of the person, without jurisdiction to render judgment and capacity to act as a court, causing its Order awarding Sanctions & Attorney fees to be VOID , Unreasonable, arbitrary, capricious, illegal ,unconstitutional & a usurpation of judicial power See, Gentry V. Bowser, 21 S.W. 569, 2 Tex. Civ. App. 388 (Fort Worth 1893). . Moreover, on December 30 , 2019 Petitioner signed his Petition for writ of Certiorari and was in the process of getting the required copies made when he fell and broke his eye Glasses, damage his lab-top and mixed up some of his legal papers where he had to get assistance from a friend,. and said Petition was attempted to be mailed on January 2, 2020 ,at the U.S. Post Office on COIT and PARKER located in Plano, Texas when one of the Employees refused to allow anyone else to enter the building because the place was full of people and it was less than 20 minutes until closing time. Later an attempt was made to mail said petition but the assistant did not have the correct amount of money to mail It and asked the person to hold it until they return with the other money, therefore it Was not stamp-filed until the next day, on the 1-3-2020 , and the Supreme court stated that it was one (1) day late, Therefore it was returned and is now being filed pursuant To 28 U.S.C. Sec. 1651 (a) , the all Writ Act. Pursuant to Rule 20, : And this Petition for Extraordinary Writ Is filed in aid of this Court's Appellate Jurisdiction . That exceptional circumstances Warrants the exercise of this Court's discretionary power and that adequate relief can not be obtained in any other form or any other court , which is essential, because otherwise, a "GROSS FUNDAMENTAL MISCRAGE OF JUSTICE WILL RESULT and Petitioner Have no other means to obtain relief from an illegal and Unconstitutional void Order and Judgment. Surely, "Actual Innocence " is an exception. Nevertheless, the Supreme Court of Texas in its Order dated October 04, 2019 , denying Petitioner petition for rehearing and rehearing en banc, the Court announced no basis for its decision, stating only that it was denied, nor did the court state any basis for its denial of Petitioner's "Petition for Writ of Mandamus " on July 26, 2019. As it did not cite any

State cases or to any Statute or Constitutional provision. Thus, the Supreme Court decision did not rest on any independent State ground which would preclude review by this court.

Accordingly, this court has jurisdiction to entertain this Petition. 28 U.S.C. Sec. 1651 (a)

### **QUESTION (S) PRESENTED**

#### **Restated State Court Civil Case**

1. **WHETHER the County Court Abused its Discretion and violated due process Under the Fourteenth Amendment and Tex. R. of Civil procedure, Rule 13, And. Tex.Civil Practice & Remedies Code, Chapter 10, In assessing Sanctions and Attorney fees against Petitioner , Where Court was without Authority to award the sanctions and Respondents action was Frivolous, unreasonable, without foundation & Jurisdiction , with "NO EVIDENCE Support.**

. . Facts of the case: All record evidence clearly reflects that Petitioner have not filed a lawsuit in the County Court at Law #5 ,Collin County, Mckinney , Texas in Cause No. 005-03474-2018. However, the facts of this instant case clearly shows that the Honorable DAN K. WILSON, Judge of the County Court at law #5 issued his ORDER and Judgment against Petitioner on February 19, 2019 awarding the Respondents Sanctions and attorney fees against Petitioner Pursuant to Rule 13, Texas Rule of Civil Procedure and Chapter 10, Texas Civil Practice and Remedies Code. Therefore at the outset, the Respondent and the Court must be able to show and establish by record evidence that Petitioner have signed and filed a lawsuit in that Court under that cause number 005-03474-2018. Next it must be shown that the lawsuit was frivolous, not supported by law and facts. These facts and requirement must be fulfilled To start a claim under Rule 13 and Chapter 10., in short, with no intent to keep this court long.

1. There is "NO RECORD EVIDENCE that Petitioner signed and filed a LAWSUIT in the County Court at Law #5, in cause. #005-03474-2018 , as required by Rule 13 and Chapter

10 . Petitioner has always acted pro-se, never used an attorney See Rule 13, first paragraph and Chapter 10 , under Section 10.001, 10.002, 10.003, 10.004 , require that a lawsuit must be filed in that court. The Court violated Every Section under Chapter 10.

2. There is "NO EVIDENCE" that the Respondent had any standing to file any Motion for Sanctions or Attorney fees ., as Statutes does not provide for an independent suit.

3. There is " No EVIDENCE that the County Court had subject matter Jurisdiction required by law to make any legal judgment awarding Sanctions, in this instant Case, and the judgment made, Due Process demands that it must be invalidated.

4. There is No Evidence that the Court served Petitioner with the required Notice Pursuant to the statutory provision under Section 10.003 and gave Petitioner any opportunity to Respond. In violation of Morrissey V. Brewer, 408 U.S. 471, 481 (1972). As a matter of law, the County Court must determine at its earliest opportunity ,whether it has the Constitutional authority to decide the case before allowing the litigation to proceed. State Bar of Texas V. Gomez , 891 S.W.2d 443, 445 (Tex. 1994) . As a general proposition, before a court may Address the merits of any case, the court must have jurisdiction over the party or the proper subject Of the Suit., jurisdiction over the subject matter , jurisdiction to enter the particular judgment ,the capacity to act as a court. Gentry V. Bowser, 2 Tex. Civ. App. 388, 21 S.W. 569, 570 (Fort Worth 1893 ); Tex. Dept. of Park & Wildlife V. Maranda, 133 S.W. 3d 21 (2014). On July 05, 2018 Petitioner filed a lawsuit in the Justice of the Peace, small claims Court Cause No.32- SC 18-146. Located In Plano, Texas. On October 11, 2018 the JUSTICE OF THE PEACE Dismissed the case And issued its ORDER AND JUDGMENT ,on that same date. No other motion was filed in that Court and none was pending. No motion for Sanctions or Attorney fees was ever filed in that Court.

1. The time period to appeal expired on November 01,2018 ,
2. The JUSTICE OF THE PEACE Plenary Power expired on November 12,2018;
3. No other motion was filed in the Justice of the Peace court and none was pending.

4. No motion was ever filed in the justice of the peace court for any sanction.

5. Petitioner never filed any appeal brief or anything on appeal,

6. As a result of those facts, the case was dropped and dismissed as a matter of law , And the Respondents Attorney ROBERT J. DAVIS, had no right, no authority, and STANDING to go to another CITY, namely McKinney, Texas and file any claim For Sanction and attorney fees for his own erroneous actions, in violation of MANTRI V. BERGMAN , 153 S.W.3d 715 (Tex. App. Dallas 2005) and Martin V. Tex. Dept. Of Family & Protective Services, 176 S.w . 3d 390 (Tex. App.. 2004) . Which held that the Statute under Rule 13 and Chapter 10 , authorize the filing of a motion for sanction, not any independent claim. Thus, where all record evidence clearly supports the above and foregoing stated facts

7. And where no appeals-Brief was ever filed ; the time period to appeal had expired; the Justice of the Peace plenary Power has expired on November 12,2018 and no sanction was ever filed in the justice of the peace Court. Therefore, any Sanction was void. Filed In another city in a different court on February 19, 2019 is "VOID " Due Process and Jackson V. Virginia, 443 U.S. 306 (1979\_) Holds and demands that Where RECORD EVIDENCE clearly shows that there is "NO EVIDENCE" that the Court had authority to issue any sanction where all evidence clearly shows that the COUNTY COURT DID NOT HAVE JURISDICTION OF THE SUBJECT MATTER OR THE PERSON AND SUCH SANCTION AND ATTORNEY FEES MUST BE VOIDED, as the Records does not support the finding necessary to impose sanctions. Johnson V. Allyn Bacon Inc 731 F. 2d 64,(1st) (1984) held that where record evidence Is devoid of evidence and the claim made was frivolous , unreasonable and without foundation, such cause it to be void Johnson, .id. and .JACKSON V . VIRGINIA, id. " MANDAMUS -A (writ of) mandamus is an order from a court to an inferior government official to properly fulfill their official duty or correct an abuse of discretion . see e.g. Cheney V. United States Dist. Court for D.C. (03-475) 542 U.S. 367 (2004) 334 F. 3d 1096) . According to the U.S. Attorney's office, "mandamus is an extraordinary remedy , which should only be used in exceptional

circumstances of peculiar emergency or public importance “ In the Federal Courts, these orders most frequently appears when a party to a suit wants to appeal a judge’s decision but is blocked by rules against interlocutory appeals instead of appealing directly, the party simply sues the judge, seeking a mandamus compelling the judge to correct his earlier mistakes. Power conferred on federal courts by the All Writs Act is meant to be used only in exceptional cases where there is a clear abuse of discretion or usurpation of judicial power. *Schlagenhauf V. Holder*, 379 U.S. 104 (1964), *Bankers Life and Casualty Co., vs Holland* 346 U.S. 379 (1953). Under *United States Alkali Export Assn., Inc., vs United States*, 325 U.S. 196, 202 , -203 (1945) this is a clear abuse of power and discretion where the court issues an order illegally and unconstitutionally in violation of the reading or wording of the statute asserted , Rule 13 and Chapter 10 and the 14th amendment of the United States Constitution . Mandamus Orders are limited to the enforcement of non- discretionary , plainly defined, and purely ministerial duties . see *Decatur V. Paulding*, 39 U.S. (1 pet. )469, 514-17 (1840), *Work V. Rivers*, 267 U.S. 175 (1925), *Wilbur V. United States* 281 U.S. 206, 218 (1930), An official action is not ministerial unless the duty in a particular situation is so plainly prescribed , as to be free from doubt and equivalent to a positive command , *Wilbur V . United States supra.* . See the Statutory Provisions stated in this instant case under Rule 13 and Chapter 10. From Section 10.001- Section 10.005. Every Rule under both Statutes was violated. See *MANTRI V. BERGMAN*, 153 S.W. 3d 715 (Tex.App. Dallas 2005) and *MARTIN V. Tex. Dept. of Family Protective Servs*, 176 S.W.3d 390 (Tex. App. 2004) and their cited authorities and progenies. The All Writ Act gives the Supreme Court and all courts established by act of congress the authority to issue Writs of Mandamus “in aid of their respective jurisdiction . “DUE PROCESS” , Thus, it is clear that Due process under the Fourteenth Amendment to the United States Constitution was violated in this instant Case., Requiring that the Sanction be in all things voided. *Morrissey V. Brewer*, 408 U.S. 471, 481, due process basic requirements are notice and opportunity to respond. *GlassV Prefer*, 657 F2d 252 (10 Cir.1980)



## **ARGUMENTS IN FAVOR OF ISSUING THE WRIT :**

### **Question Presented No. 2 (Restated)**

**2. WHETHER the County Court Abused its Discretion and Violated Due Process under the 14th. Amend. Where it Displayed Deep-Seated Favoritism or Antagonism toward Respondent and Displayed clear Evidence of BIAS and Prejudice toward Petitioner during the proceeding that Recusal under 28 U.S.C. Sec. 455 (a & b) And Sec. 144 was required and such Source Factors made Fair Judgment impossible and Unreliable Requiring the Sanction to be Vacated and voided.**

**Due Process: It is well settled that Petitioner was denied due process where he was denied the right to a Fair and impartial Hearing. (2) He was denied due process with respect to notice and opportunity to be Heard, and sufficient express finding to justify any imposition of sanction, and the rights to have the case dismissed upon finding that charge is unjust, unreasonable and improperly based on false and perjury allegations. Morrissey V. Brewer, 408 U.S. 471 (1972), Glass V. Pfeffer, 657 F. 2d 252 (10 cir 1981) . Where the County Court Violated Due Process and The STATUTORY PROVISION Rule 13 And Chapter 10, CANON No. 1, 2, and 3 of the Texas Code of Judicial Conduct in favor of the Respondent's Attorney and allowed him to improperly file motions in his court against Petitioner , that he knew was illegal and was well aware that his Judicial conduct was wrong and Attorney PROFESSIONAL CONDUCT WAS WRONG, from the very beginning . . Because such " SHAM" was made and designed to commit fraud and grand thief and alleged it as SANCTIONS AND ATTORNEY FEES , against the elderly. Under Liteky V . United States, 510 U.S. 540, 114 S.ct. 1147 and Liljeberg V. Health Service Acquisition Corp. , 486 U.S. 847, 862-64 (1988) . The Supreme Court concluded that in determining whether a Judgment should be vacated for a violation of Section 455. The Court must consider the risk of injustice in other cases, and the risk of undermining the public confidence in the Judicial process. See U.S. V . Jordan, 49 F. 3d 152 (5th cir. 1995) Court order need to be vacated when**

there was an appearance of actual "BIAS" In the proceeding. U.S. V. Young, 39 F. 3d 1561, 1570 (11 Cir. 1994). Right to trial by an impartial judge is the basic requirement of due process, In Re Murchison, 349 U.S.133,136 (1955)the most critical factor is Not the source of the judge prejudicial knowledge or bias , but rather, the Judge inability to render a fair Judgment, see Canon # 2 and #3. Petitioner files his motion to Recuse Honorable Dan K. Wilson, Judge , of the County Court at Law No. 5, in Collin County, Texas on March 04, 2019 and he recused himself , On March 05, 2019, the very next day. The Judge may rule on the motion to recuse under Sec.455, Sec. 144. See Pashaian V. Eccleston properties inc. 88 F. 3d 77, 82 (2nd. Cir.) cert. Denied 117 S.ct. 620 (1996 ) U.S. V. Mizell, 88 F .3d 288, 298 (5th cir. 1996) cert. Denied ; A judicial decision on recusal may be immediately reviewable. Under In Re Anter, 71 F. 3d 97, 101 (3rd cir 1995) judge recusal decision under Sec. 455, reviewable on petition for writ of mandamus. In re Aetna Casualty and sur. Co. 919 F. 2d. 1136, 1142 (6th cir. 1990 ) (en banc) County Court made its order granting Sanction on February 19, 2019, Petitioner filed his Motion to Recuse on March 04, 2019, and his motion to rescind order. The Writ of Mandamus is appropriate issue when there is usurpation of judicial power or a clear abuse of Discretion Baker Life and Casualty Co. V. Holland, 346 U.S. 376, 382 , and United States Alkali Export Assn. V. United States, 325 U.S. 196, 202 (1945). Thus, it is a clear abuse of discretion and usurpation of power where the Court issued an Order illegally and unconstitutionally in violation of the actual reading and wording of the Statute pursuant to RUE 13, and Chapter 10 id. As the County Court violated every Section of both Statutes, in its assessment of the said illegal Sanction.

Art. 14, of the Constitution - Section 1, 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 law. (LOOK AT THE SANCTION FILED, THIS IS

CLEARLY VIOLATED) . Court orders may be vacated where there is an appearance of actual BIAS, as is clear in this instant case at bar. Because the records here clearly does show actual bias, prejudice, and judicial usurpation of power, in violation of due process under the Fourth, Fifth, Sixth, and Eighth Amendments as applicable to a State Court petitioner by and through the due process clause of the Fourteenth Amendment.

#### QUESTION PRESENTED-

—— Restated No. THREE

3. WHETHER The County Court Abused its Discretion and Violated Due Process under the 14 Th. Amend. when it assessed Sanctions and Attorney Fees against Petitioner under Rule 13, and Chapter 10 in violation of MANTRI V. BERGMAN,.153 S.W.3d 715 (Tex App.2005) and Martin V. Tex. Dept. of Family & protective Servs,. 176 S.W. 3d 390 (Tex. App..2004) ...

On February 19, 2019 , The Honorable DAN K. WILSON, Judge of the County Court At Law No. 5, Mckinney, Texas located in Collin County,Texas, Illegally issued a Sanction and Attorney Fees awarded against Petitioner pursuant to Rule 13, Texas Rule of Civil Procedure, and Chapter 10, Tex. Civ. Practice and Remedies Code . Under the Laws in Texas and the Statutory provision, and under MANTRI V.. . BERGMAN, 153 S.W. 3d 715 (Tex. App. Dallas 2005), and MARTIN V. Texas Department of Family and Protective Services, 176 S. W. 3d 390 (Tex. App. Hou. 2004) and their cited authorities and Progenies, all cases holds that the statutory provision under Texas Civil Practice and Remedies Code allows, when proper, the filing of a motion for Sanction, not an affirmative Claim. And then only after a party, first sign and file a lawsuit, in that court, and such- lawsuit must be shown, not to be supported by facts and law, groundless , frivolous or done to cause some improper purpose , Neither Chapter 10 nor Rule 13 allow anyone to file an independent claim . The law require that all sanctions must be raised and filed in the Court where the alleged frivolous litigation alleged to have occurred and then only while

the trial Court yet had plenary power, Once the court lose plenary power, all rights to sanction under Rule 13 and Chapter 10 is lost. This has been the law for many years, therefore any judge or attorney must have had knowledge of those facts. How can any Attorney or any judge, who took an OATH to uphold the Statutes, Constitution and laws of the State, and United States, up and violate every section of the Statute and Rule of law and issue a Sanction against anyone based on "False Accusations, unsupported by facts, " "Perverting the Course of Justice". Absent the false claims, the Sanction was based on "NO EVIDENCE" . As there is no Record Evidence that Petitioner signed and Filed a Lawsuit in that Court, nor does the law allow anyone to file any claim of any allegation of what was alleged to have occurred in any court below, where the Court Plenary power had expired MANTRI, supra. All claims under Rule 13 and Chapter 10 are lost.. MANTRI V. Bergman, supra; and Martin, supra; Thus, this was an intentional pray on the elderly, and we as a people Ask this most Honorable Court to grant this Petition and issue its Order to DISBAR ATTORNEY ROBERT JAY DAVIS, For his Illegal and Unconstitutional Actions , He is the one who prepared the SANCTION And Had it ELECTRONICALLY FILED for the Judge to sign,. Look at the top of the Right side, page 1. . It is really confusing how anyone can state that they had considered arguments of Counsel for Defendants and PLAINTIFF, ( As if plaintiff has a lawyer, All records clearly shows that Petitioner Was never represented by any Lawyer in this case. NEXT , LOOK AT PAGE - 2- under paragraph (3) which states : ( After a careful review of the pleadings and consideration of the evidence presented, the Court concludes that the appeal to this court and the underlying lawsuit in JUSTICE COURT were clearly filed for the purpose of harassment of PLANO POLICE DEPARTMENT, officer JODY PRIVETT and the CITY of Plano ). The Facts of this case is very simple, Attorney Robert Jay Davis and the Court saw that Petitioner was Sick, ill from the Police Brutality , caused by Officer Jody Privett on July 10, 2017, that later cause Petitioner to suffer all sorts of pain , Requiring Doctor and hospital visits, and some type of internal Bleeding. Oh yes, before It escapes my mind, page 2, Under Paragraph (4), that WARRANT CONFIRMATION

SHEET from the City of Dallas is simply VOID just a worthless piece of paper. It contain no indicia of reliability And its is in violation of OHIO V. ROBERTS 448 U.S. 56, (1980) and MARCUSI V. STUBBS, 408 U.S. 204 (1972) appears that any Attorney should know that , in order for that to be legal it would have to be STAMPED FILED AND CERTIFIED BY A JUDGE, to be legal coming from one county to another, no mere clerk has the authority to issue such as that. In addition, The trial court issued it official order and judgment on SEPTEMBER 12,2017 DISMISSING THAT CASE STATING THAT IT WAS VOID, the ticket was almost 17 years old, The Texas Legislature makes the law and all CClass "C " Misdemeanor cases have a two (O2) year limitation. But yet Petitioner never failed to make every court appearance. Personally, Petitioner was taught as A child that every TUB must sit on its own BOTTOM. As Petitioner doesn't go around and try to spend other people's money, nor do he attempt to hide behind another. VOID the Sanction and Attorney Fees awarded by the County Court At Law No. 5. And do what the Court found to be just and proper, that would be such as to put a stop to this type of illegal actions. Petition asserts that he has done his part, and have spent many dollars and many hours of work And suffered many hours of pain caused by the injury to his back caused by Officer JODY PRIVETT #1374 to come this far, and asserts that he is not only doing this for himself, but for all the many other elderly people that may be prayed upon if this goes uncorrected. In making a decision under this error, the Supreme Court held that in determining whether a judgment should be vacated for a violation, the Court must take into account the risk of injustice that may occur to others and the likelihood that such would undermine the public confidence. U.S. V. Jordan, 49 F. 3d 152 (5th cir. 1995). Petitioner's rights to mandamus was clear and indisputable, and have made a clear showing that the County Court grossly abused its discretion , Petitioner's rights to Mandamus is clear and indisputable under In Re Volkswagen of Am. , 545 F. 3d 304, 311 (5th. Cir. 2008 ) a Court Abuse it discretion if it:

- (1). Relies on clearly erroneous factual finding;
- (2) Relies on erroneous conclusion of law ;

(3) Misapplied the law to the facts;

Id. at 310 quoting *McClure V. Ashcroft*, 335 F 3d 408 (5th Cir. 2003) The Court reviews for three types of errors on Mandamus review, And will grant Mandamus relief where such errors produce a patently erroneous result. Id. Petitioner's entitlement to Mandamus relief is unmistakable under this standard. The SUPREME Court Clearly stated that , the correction of an illegal Sentence or Judgment is an Extraordinary cause which mandamus is available. Under *UNITED STATES V. DENSON* 603 F. 2d 1143 (1979), citing *Ex Parte U.S.* 242 U.S. 27,37 S.Ct. 72 (1916) Further held , that latitude is permissible only within the bounds set by Statute, when , as here he goes beyond that limit, he has exceeded the utmost reach of his discretion and it becomes this court duty to notify him to remain within the bounds set by the Legislature. As the instant case required the County Court to Dismiss the Respondent's Motion and dismiss the case as was done in *MANTRI*, *supr.* . The imposition of a sentence that is illegal is a manifest transgression that Appellant Court had the duty with minimal margin for judgment to correct an illegal sentence . In *UNITED STATES V. DENSON*, *supra*, these cases indicate that , if a court exceeds the scope of its judicial authority , the aggrieved party should be granted the writ almost as a matter of RIGHT, Consequently, a petition to correct illegal sentences by mandamus have routinely been granted , lengthy citations omitted . Thus, if one was to actually consider the actual facts of this instant case, it boils down to : A conspiracy And Discrimination Against an elderly to commit Fraud and Grand Theft and lable it as SANCTION and ATTORNEY FEES.

**MATERIAL FACTS OF ARREST:** On July 10, 2017, about 12:o'clock high noon Petitioner was ILLEGALLY ARRESTED at WALMART , without probable cause or justification as he sit in his car parked across the driveway in front of the front main door looking in his wallet for the receipt to return some items . when he was approached by a Plano Police Officer asking if he was alright. Petitioner stated that he was, and that he was looking in his wallet for a receipt to

return some items that he had purchase there the day before, officer asked if Petitioner had a driving license, he said yes and gave him his license . A few minutes Later Petitioner found the receipt that he was looking for, and when the said officer returned to his car he showed him the receipt. Officer then asked if he knew that he had a warrant out on him for a traffic ticket.

Petitioner stated that he did not have any warrant Against him anywhere, He then arrested Petitioner illegally based on a November 23, 2001. Traffic Ticket that was over 16 years old. He handcuffed Petitioner from behind , forces him to get into a SUV Police Car with the seat pushed so close to the back of the front seat that Petitioner could not put his feet on the floor, had to sit down on the back seat and draw up his legs behind him, and was forced to remain in that position for over an hour, complaining without results, told him that he had been under the doctor for over two years suffering from a severe back injury . Was put in jail for over 4-5 hours was released after posting a \$195.00 cash bond and given orders to go to court in Dallas,Texas on the ticket.

After making 4-5 court appearances, the Judge dismissed the ticket stating that it was void. . There was several other Plano Police officers present when petitioner was arrested. Officer JODY PRIVETT # 1374. was the one who arrested him and took him to Jail. However upon release from jail Petitioner returned to his car, the glove box on the dash and the one in between the bucket seat was busted open, and the trunk lock on the driver door was destroyed. Why, is a good question, the items was not locked and they had the car key .But that illegal act caused Petitioner's back to be re-injured and have caused him many problems since then, ,being treated by doctors and hospital. Petitioner was over 75 Years of age when arrested, And such illegal acts created felony elderly abuse Official action from beginning was based on fraud. King V. Guerra 1 S.w. 2d373 (Tex. Civ. App. 1927 ).

PRAYER FOR RELIEF

Wherefore, Premises Considered, Petitioner, pro-se, respectfully prays that this Honorable Court will deem timely this Petition for Writ of Mandamus filed pursuant to Rule 20 and 28 U.S.C. Sec. 1651(a), filed in aid of this Court's Appellate Jurisdiction and issue its order Voiding The illegal and unconstitutional Sanction and Attorney Fees awarded against Petitioner where all record evidence clearly shows that the Sanction is Void, and Due to usurpation of power, and an abuse of authority., the Action of the Supreme Court of Texas have violated Petitioner's right to Due Process and Equal Protection of the law under the Fourteenth Amendment to the United States Constitution. and Grant whatever other relief that the Court finds to be just and proper. Petitioner respectfully request this Honorable court consider all the illegal acts done by Attorney ROBERT JAY DAVIS and his female associate acted together filed in this case and DISBAR THEM BOTH OR SANCTION THEM , WHATEVER SEEMS JUST AND FAIR.

RESPECTFULLY SUBMITTED,

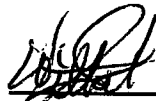


WILBERT NORWOOD STARKS

Subscribed and sworn to this the 6 day of February, 2020. That all is true and correct against the charge of perjury Wilbert Norwood Starks.

Wilbert Norwood Starks

I, IN RE WILBERT NORWOOD STARKS, DO HEREBY CERTIFY THAT THE RESPONDENTS HAVE BEEN SERVED A TRUE AND CORRECT COPY OF THE above and foregoing instrument , namely, Petition for Writ of Mandamus have been served on the Respondents Attorney of Records Attorney ROBERT J. DAVIS on this the 6, day of February, 2020.



Wilbert Norwood Starks,  
5317 Tate Ave.  
Plano, Texas 75093