

No. 19-7841

FILED
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OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE
SUPREME COURT OF THE UNITED STATES

IN RE ELLOYD JOHNSON — PETITIONER
(Your Name)

VS.

PAUL BANNER / SOLICITOR GENERAL — RESPONDENT(S)

PETITION FOR AN EXTRAORDINARY WRIT § 1651(a)
PROHIBITION AND MANDAMUS, BOTH IN ALTERNATIVE
COURT OF CRIMINAL APPEALS OF TEXAS
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

LEAVE FOR EXTRAORDINARY WRIT AUTHORIZED BY 28 U.S.C. § 1651(a)
PROHIBITION AND MANDAMUS BOTH IN ALTERNATIVE SEEKING RELIEF
ELLOYD JOHNSON
(Your Name)

3872 FM 350 SOUTH
(Address)

LIVINGSTON, TEXAS 77351
(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

(1)

WHEN A JUDICIAL OFFICER CLEARLY PRESIDE OVER A CONVICTION AND SENTENCE WITHOUT BEING ASSIGNED OR HAVE TAKEN OATH OF OFFICE AND OTHER . . . REQUIRED LEGAL FORMS TO ACT AS A SINGLE JURIST OR JUDGE. DO THE CONVICTION AND SENTENCE STANDS AFFIRMED AS CLOSED, WITH NO FURTHER FORM OF CONSIDERATION BY THIS COURT?

(2)

WHEN CLAIMS OF MISCONDUCT BY A SINGLE JURIST OR JUDICIAL OFFICER IS PRESENTED TO THE COURT UNDER CERTIORARI AND CERTIORARI IS DENIED AND REHEARING IS DENIED. IS IT IMPOSSIBLE TO MOVE FOR CONSIDERATION FOR RELIEF IN THIS COURT WHEN NO OTHER COURT CAN GRANT RELIEF SOUGHT, UNDER IMMEDIATE RELEASE OR REMAND TO THE LOWER COURT?

(3)

DO THIS COURT DISCRETIONARY POWER UNDER 28 U.S.C. § 1651(a) JURISDICTIONAL THAT ESTABLISHED BY CONGRESS IS THE ONLY COURT AT THE APPELLATE STAGE TO GRANT RELIEF SOUGHT ON A MODIFIED RELEASE PERSPECTIVE?

(4)

DO THIS COURT DISCRETIONARY POWER UNDER 28 U.S.C. § 1651(a) JURISDICTIONAL AFTER TWENTY YEARS OF INCARCERATION UNDER A WHATS FACTUAL AS A STATE DECISION VOID CONVICTION AND SENTENCE UNDER STATE AND FEDERAL LAW . . . DO THIS COURT HOLD EXCLUSIVE JURISDICTION TO GRANT RELIEF SOUGHT FOR IMMEDIATE RELEASE?

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

LATIMER V. LOGWOOD 27 S.W. REP. 960.

FARISS V. BEEVILLE BANK 194 S.W. REP. 1169

CASTLES V. BURNY 34 TEX. 470, 33 CORPS. JURIS. P. 1029.

SUMMERLIN V. STATE. 69 TEXAS CRIM. REP. 275.

R. K. MIMS V. THE STATE. 69 TEXAS CRIM. 176 15 S.W.2d 628 (CRIM APP. 1929).

CONTROLLING CASE

HERROD V. THE STATE OF TEXAS 650 S.W.2d 814 (TEX. CRIM. APP. 1983) IS THE PRIMARY EXCUSABLE BASIS FOR THIS COURT'S ISSUANCE OF THE EXTRAORDINARY WRIT UNDER CHAPTER III GENERAL PROVISIONS 28 U.S.C. § 1651(a) WRITS WHERE THE SUPREME COURT AND ALL COURTS ESTABLISH BY ACT OF CONGRESS MAY ISSUE ALL WRITS NECESSARY OR APPROPRIATE IN AID OF THEIR RESPECTIVE JURISDICTION AND AGREEABLE TO THE USAGES AND PRINCIPLES OF LAW SEVERAL STATES SHALL BE REGARDED AS RULES OF DECISION IN CIVIL ACTIONS IN THE COURTS OF THE UNITED STATES IN CASES WHERE THEY APPLY CITING 28 U.S.C. § 1652.

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IN THE
SUPREME COURT OF THE UNITED STATES

Petitioner respectfully prays that a writ [REDACTED] 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 E 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 C - 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 _____ 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 STATE APPELLATE - COURT OF APPEALS court appears at Appendix A - B 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 30TH DAY OF AUGUST 2018.

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: 15TH DAY OF AUGUST 2018, and a copy of the order denying rehearing appears at Appendix FILED WITH CERTIORARI.

An extension of time to file the petition for a writ 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 8TH DAY JAN. 2016. A copy of that decision appears at Appendix C-D .

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

THE STATE OF TEXAS HAVE BEEN ABLE TO MEET THE BURDEN AFTER A JUDGE OR JUDICIAL OFFICER PRESIDES OVER A CONVICTION OR SENTENCE. HELD, "WE HOLD THAT WITHOUT THE TAKING OF THE OATH PRESCRIBED BY THE CONSTITUTION OF THIS STATE, ONE CANNOT BECOME EITHER A DE JURE [LAWFUL] OR DE FACTO [ACTUAL] JUDGE, AND HIS ACTS AS SUCH ARE VOID." THIS PROVISION IS PROVIDED FOR A NEED TO MODIFY THE CONTINUED INCARCERATION UNDER A CERTIFIED VOID SENTENCE AND CONVICTION THAT INVOLVE CONSTITUTIONAL AND STATUTORY LAW RELATED TO THE CASE IN THIS COURT.

S.C. RULE 14 (CONTENT (b)(i)(ii)) PROCEEDING THROUGH STATE OR FEDERAL COLLATERAL REVIEW.

THE STATE OF TEXAS: STATE COMMISSION ON JUDICIAL CONDUCT HAVE KNOWLEDGE OF PETITIONER'S COMPLAINT BY DOCUMENTS THAT WAS USED OR FILED IN THIS CASE UNDER RULE 44 REHEARING THAT WAS DENIED.

THE STATE COMMISSION ON JUDICIAL CONDUCT OF TEXAS CONDUCTED PETITIONER'S COMPLAINT ON RESPONSE DATES: SEPT. 6, 2011; OCT. 17, 2011; AND OCT. 28, 2011, UNDER CJLCND. 11-1115-RT ALLEGING BY COMPLAINT THAT A HIGH OFFICER OF THE STATE WHO HEADS A DIVISION OF GOVERNMENTAL ACTIVITIES DID NOT HAVE AUTHORITY TO PRESIDE OVER PETITIONER'S TRIAL.

LEAVE INCOMPLIANCE WITH S.C. RULE 20.1.

UNDER AUTHORIZATION BY 28 U.S.C. § 1651 (a) WHERE THE WRIT WILL BE IN AID TO THIS COURT'S APPELLATE JURISDICTION WHERE STATE AND FEDERAL APPELLATE COURTS HAVE DISMISSED APPEAL BY WAIVER CONTENT THATS NOT CLEAR AND CONVINCING FEDERAL OR STATE LAW PROVIDED BY THE SUPREME COURT RULES OR AMENDMENT ORDERS.

THE EXCEPTIONAL CIRCUMSTANCES OF THE FEDERAL APPELLATE COURT'S TIMELY PAYMENT AND THE STATE'S COURT OF CRIMINAL APPEALS ABUSE OF WRIT IS QUESTIONABLE? THIS COURT'S EXERCISE AND DISCRETIONARY POWERS TO RULE ON THE MERIT OF A JUDICIAL OFFICER NOT HAVING HIS OATH OF OFFICE AND NOT ASSIGNED TO PRESIDE OVER PETITIONER'S TRIAL BY JUDGMENT IN EFFECT OVER 20+ YEARS, WITHOUT RELIEF FROM STATE OR FEDERAL COURTS OF TEXAS, AND THE FIFTH JUDICIAL CIRCUIT OF THE UNITED STATES ON APPELLATE REVIEW.

IMMEDIATE RELEASE FROM CUSTODY IS WHAT PETITIONER
IS SEEKING FOR RELIEF

PETITIONER'S SENTENCE AND CONVICTION CANNOT BE REFILED IN STATE OR FEDERAL COURTS DISCRETIONARY JURISDICTIONAL WAIVER...

ALL STATE AND FEDERAL COURTS HAVE HELD A DECISION THAT WARRANTS THIS COURT'S JURISDICTIONAL POWERS AND ADEQUATE RELIEF CANNOT BE OBTAINED IN ANY OTHER FORM OR FROM ANY OTHER COURT UNDER RULE 20.1.

THIS PETITION IN IT'S ENTRY SEEKING IMMEDIATE RELEASE FROM CUSTODY UNDER SATISFYING RULE 20 IS MENTION AND LITIGATED ACCORDINGLY AT CONCLUSION

STATEMENT OF THE CASE

THIS JURISDICTIONAL COURT HAVE VISIT A OATH PERSPECTIVE WHERE A APPOINTED APPELLATE COURT JUDGE MAY HAVE SERVED WITHOUT TAKING FRESH.. OATHS.

HISTORY RECORDS FILED IN ONE U.S. SUPREME COURT CASE IDENTIFIED AN APPELLATE COURT JUSTICE IN HOUSTON, TEXAS CASE WHO DID NOT TAKE AN OATH AS REQUIRED UNDER TEXAS.. STATE AND FEDERAL LAW... IN ORDER TO PRESIDE AS A JUSTICE OR JUDGE LEGALLY.

PETITIONER'S CONVICTION AND SENTENCE WAS PRESIDED BY A VISITING JUDGE THAT WAS NOT ASSIGNED BY THE REGION JUDGE AND HAD NOT TAKEN LEGAL OATH BY TEXAS 1977 FRESH OATH PERSPECTIVE ARE THE NECESSARY APPOINTMENT AND RETIREMENT PROCESS IN ORDER TO BE CALLED AS A VISITING (RETIRED) OR SIT IN JUDGE.

THIS CONSTITUTIONAL REQUIREMENT FOR OATH OF OFFICE WAS A MUST. UNDER STATE COMMISSION ON JUDICIAL CONDUCT THATS ENTERED UNDER CJC NO. 11-1115-RT AND FILED IN THE COURT OF APPEALS FIFTH DISTRICT OF TEXAS AT DALLAS... THAT RESPONDED BY DISMISSING THE APPEAL FEB. 17, 2012 JUDGMENT - MANDATE FOR WANT OF JURISDICTION?.. PETITIONER FILED FOR MANDAMUS AND THE SAME APPELLATE COURT MEMORANDUM OPINION THREE JUDGE PANEL DENIED PETITIONER'S WRIT. JAN. 5, 2012? PETITIONER PROVIDED THE APPELLATE COURT NEWLY DISCOVERED DOCUMENTS THAT SHOWS THE.. PRESIDING JUDGE WAS NOT ASSIGNED TO PRESIDE NOR HAD HIS OATH OF OFFICE. NOR STATEMENT OF.. APPOINTED OFFICER. NOR AFFIDAVIT TO SERVE ON JUDICIAL ASSIGNMENT. BY ADVISING THE (SCOT) SUPREME COURT OF TEXAS TO PURSUANT TO TEXAS GOVERNMENT 75.001 TO BE JUDICIALLY ASSIGNED, WHERE MINISTERIAL DUTY WAS NOT AUTHORIZED BY STATE LAW.. UNDER SUPRA ALLEGATIONS TO BE ASSIGNED OR PRESIDE.

THE APPELLATE ISSUED ANOTHER MEMORANDUM OPINION DENYING RELATOR-PETITIONER'S... MANDAMUS ON APRIL 18, 2013. WHERE IT AGAIN USED ERROR FOR TRIAL COURT NO. CJ-C NO. 11-1115-RT? WHEN SUCH NUMBER IS THE STATE COMMISSION ON JUDICIAL CONDUCT NUMBER?? AND CHANGED THE COUNTY TO HUNT COUNTY AND CHANGED THE COURT TO 196TH JUDICIAL COURT WHERE THE VISITING OR RETIRED JUDGE ORIGINALLY PRESIDES?? WHEN PETITIONER ...

CONVICTION AND SENTENCE WAS IN DALLAS COUNTY 195TH JUDICIAL COURT UNDER TRIAL COURT NO. F-98-00897-PN.

WHATS EXTRAORDINARY IS THE SAME APPELLATE COURT HAS PETITIONERS ORIGINAL PROCEEDING UNDER DIRECT APPEAL UNDER (3) THREE DIFFRENT NUMBERS?? (1) JAN. 5, 2012 NO. 05-11-01686-CV ; (2) FEB. 17, 2012 NO. 05-12-00069-CR ; AND (3) APRIL 18, 2013 NO. 05-13-00429-CV?

INCOMPLIANCE WITH S. C. RULE

20. 4(a)

PETITIONER'S REASON FOR NOT MAKING APPLICATION TO THE DISTRICT COURT UNDER HABEAS REVIEW ONLY PROVIDES A TRANSFER PROCESS UNDER PROCEDURAL RULE PURSUANT TO HENDERSON V. HARD, 282 F.3d 862, 864 (5TH CIR. 2002) AND IN RE EPPS, 127 F.3d 364, 365 (5TH CIR. 1997).

THE EXCEPTIONAL CIRCUMSTANCES DO NOT BAR PETITIONER FROM FURTHER REVIEW TO ANOTHER JURISDICTIONAL COURT FOR RELIEF SOUGHT FOR IMMEDIATE RELEASE OF A VOID SENTENCE AND CONVICTION DUE TO A JUDICIAL OFFICER PRESIDING AS A "DE JURE [LAWFUL] OR DE FACTO [ACTUAL] JUDGE WITHOUT TAKING THE OATH PRESCRIBED BY THE STATE OF TEXAS CONSTITUTION" AND FEDERAL LAW. THATS WELL SETTLED.

REASONS FOR GRANTING THE PETITION

FOR WRIT

IN THIS PRESENT DAY AND TIME, WHEN SUBVERSIVE INFLUENCES AND ACTIVITIES WHICH WOULD DESTROY OUR GOVERNMENTS AND THE PRINCIPLES UPON WHICH THEY ARE FOUNDED ARE ABROAD IN THIS COUNTRY, IT IS A MATTER OF MUCH PUBLIC CONCERN AND IMPORTANCE THAT OUR PUBLIC OFFICIALS SHOULD BE REQUIRED TO SWEAR THEIR PERSONAL ALLEGIANCE TO, AND BELIEF IN, THE PRINCIPLES UPON WHICH OUR GOVERNMENTS ARE FOUNDED. THE COURT RULED, QUOTING FROM AN EVEN EARLIER RULING, THE COURT SAID A JUDGE HAS "NO LEGAL POWER OR AUTHORITY TO ACT UNTIL HE HAS TAKEN THE OATH OF . . . OFFICE" THE LITIGATION RULINGS IN HURST V. STATE DRUG CASE (CRIM. APP. 1977), THE SECRETARY OF STATE OF THE STATE OF TEXAS VISIT THIS EVIDENCE OCT. 31, 2011, UNDER § 552.028, AND THE STATE COMMISSION ON JUDICIAL CONDUCT EXECUTIVE DIRECTOR SEANA WILLING RESPONDED PUBLICLY BY E-MAIL "IT DOESN'T CHANGE THE CONCLUSION WE MUST REACH, ABSENT A SHOWING OF BAD FAITH ON THE PART OF THE JUDGE, THAT THE COMPLAINANT MUST ADDRESS THIS ON APPEAL, NOT THROUGH THE DISCIPLINARY PROCESS".

THE WRIT IS IN AID OF THIS COURT'S APPELLATE JURISDICTION BY HISTORY OF APPEAL, PROCESS STATE AND FEDERAL PROCEDURE AND EXCEPTIONAL FURTHER REVIEW CIRCUMSTANCES WARRANTS THE EXERCISE OF THIS COURT'S DISCRETIONARY POWERS, AND THAT ADEQUATE RELIEF CANNOT BE OBTAINED IN ANY OTHER FORM OR FROM ANY OTHER COURT.

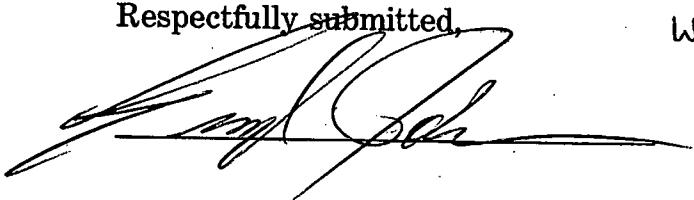
CONCLUSION

FOR THE FOREGOING REASONS SET OUT IN THIS LEAVE FOR SUPREME COURT RULE 20, "PETITION FOR AN EXTRAORDINARY WRIT § 1451(B)" ASK THIS SUPREME COURT OF LAST RESULT TO GRANT A RELIEF

SOUGHT FOR IMMEDIATE RELEASE AFTER 22 YEARS ON A VOID SENTENCE SUA SPONTE. AMENDED FILING IS ATTACHED TO RETURNED PAPERS.. TITLED PETITION FOR AN EXTRAORDINARY

Respectfully submitted,

WRIT SEEKING IMMEDIATE RELEASE.



Date: 29 DAY OF NOV. 2019

DAY OF JAN. 2020

11 DAY OF FEB. 2020