

No. 19-8233

IN THE
SUPREME COURT OF THE UNITED STATES

ORIGINAL

Reynaldo Cantu — PETITIONER
(Your Name)

vs.

State of Texas — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Texas Court of Criminal Appeals
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

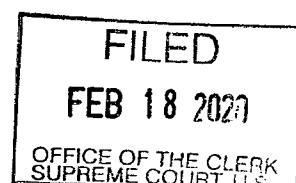
PETITION FOR WRIT OF CERTIORARI

Reynaldo Alberto Cantu
(Your Name)

3060 FM 3514 (Stiles Unit)
(Address)

BEAUMONT, TEXAS 77705
(City, State, Zip Code)

(409) 722-5255
(Phone Number)



QUESTION(S) PRESENTED

Whether The Texas High Court Error, denying Petitioner the Right to a "fair and impartial trial" failing to Remand Case back to the trial court, after "BIAS" Juror was determined and proven thru the Record?

(i)

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

U.S. v Kechedzian; 902 F3d 1023 (9th cir 2018)
Virgil v Dretke; 446 F3d 598 (5th cir 2006)
Tumney v Ohio; 273 U.S. 570, 47 S.Ct. 437 (1927)
Sumner v Mata; U.S. 539, 101 S.Ct. 764 (1981)
Irwin v Dodd; 366 U.S. 717, 81 S.Ct. 1639 (1961)

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ATTACHED

INDEX TO EXHIBITS

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TABLE OF AUTHORITIES CITED

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IN THE
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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 _____ 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 is unpublished.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 _____ 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 is unpublished.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 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 13th Court of Appeals _____ court 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.

JURISDICTION

For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was _____.

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 Nov. 20, 2019. A copy of that decision appears at Appendix A .

A timely petition for rehearing was thereafter denied on the following date: Dec. 2, 2019, and a copy of the order denying rehearing appears at Appendix C .

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).

Texas Court of Criminal Appeals Refused Review of Appellant's Petition for Discretionary Review from opinion of the 13th Court of Appeals on Nov. 20, 2019-(App.A) TR CT NO. 13-08-7359- COA NO. 13-14-00133-CR-PD-0758-19
The Jurisdiction of this Court is involved under 28 U.S.C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

U.S. CONSTITUTION. 6th AMENDMENT

"IN ALL CRIMINAL PROCECUTIONS, the Accused shall enjoy the right to a speedy and Public Trial by an Impartial Jury of the State and District where in the Crime shall have been committed which District shall have been Previously Ascertained by Law, and to be informed of the Nature and Cause of the Accusation; to be confronted by the Witness against him; to have Compulsory Process for obtaining witnesses in his favor; and to have the Assistance of Counsel for his defense"...

U.S. CONSTITUTION. 14th AMENDMENT

Section 1. "All persons born or naturalized in the United States and subject to the Jurisdiction thereof are Citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall Abridge the Previleges or Immunitiess of Citizens of the United States; Nor shall any 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"...

28 U.S.C. § 1257(A)

Final Judgement or decrees rendered by the Highest Court of a State in which a decision could be had, may be reviewed by the Supreme Court in which a decision could be had, may be reviewed by the Supreme Court by a Writ of Certiorari where the validity of a Statute of the United States is drawn in Question on the Ground of it's being Depugnant to the Constitution, Treaties, or laws of the United States, or where any Title, Right, Previlege or Immunity is specially set up or claimed under the Constitution or the Treaties or Statute of or Any Commission held or Authority Exercised Under the United States.

PETITION FOR WRIT OF CERTIORARI

Petitioner Reynaldo Cantu, Respectfully petitions this Honorable Court for Writ of Certiorari to review the decision of the Texas High Court. Texas Court of Criminal Appeals makes the decision to not Resolve "BIASED" and clearly "UNQUALIFIED JUROR" issue and fails to allow Petitioner to file a Pro se "Direct Appeal" to pursue this issue. After 2nd Appellate counsel disobeys the Court, filing a simple "Rebrief" to the Court ignoring this and other argueable issues commanded to be briefed with merit by the 13th Court of Appeals.

PETITIONERS OPENING PRAYER TO THE COURT

Petitioner Prays this Honorable Court to Review this Petition for Writ of Certiorari, under the more liberal standard established by this Honorable United States Supreme Court in: Haines v Kerner; 404 US 519(1972) and Hulsey v Owens; 63 F3d 354 (5th cir 1995).

...."Pro se pleadings are to be construed liberally and held to less stringent standards than formal pleadings drafted by lawyers, if the Court can reasonably read claims to state a valid cause of action upon which litigants could prevail, it should do so despite litigants failure to cite Proper Authority, Confusion of Legal Theories, Poor Grammer and Sentence Construction of a Litigants unfamiliarity with PLEADING REQUIREMENTS".....

Haines; 404 US 519(1972)

STATEMENT OF THE CASE

On Dec. 3, 2013, Petitioner Reynaldo Cantu, thru counsel pled "Not Guilty" to:"Continious Sexual Abuse of a Child"(Texas Penal Code 21.02) in the 24th Judicial District Court, Calhoun County Texas. Ca. No. 13-08-7359 .

Petitioner was found "Guilty" by a clearly "BIAS" Jury Panel, see (RR2:76;172)(Exh A) sentenced to Life at the Texas Dept. of Criminal Justice on Dec. 5, 2013.

Appellate Counsel: Kieth Wieser filed an Anders Brief on July 14,2014. On Oct. 15,2014, Petitioner filed a Pro se brief. Being inexperienced at law and its procedures with only a limited Review of the file provided by Mr. Wieser.

On Jan. 5,2016, 13th Court of Appeals issued an "Order of Abatement" (App. D).. Ordering New Counsel be appointed to Brief the Argueable issues discovered in the Record. See(Order of Abatement at 2)

On Nov. 1,2017, Petitioner sent his 4th UNRESPONDED TO letter to Attorney addressing "BIAS JUROR" issue. See(Exh B4,B5). Unbeknown to Petitioner, Counsel Mr. Hayden had filed a Re-Brief of Petitioners Pro se brief disregarding Courts Order to Brief the Argueable issues.

Upon initial review of Petitioners Writ of Habeas Corpus, with Findings of Fact:see(App F) that demonstrated Ineffective Assistance of Counsel and among other things "Juror Bias", Texas Court of Criminal Appeals remanded for Resolution of the issues.see(Exh E).

Mar. 20,2019, Order from the 24th Judicial Court towit Trial Counsel and Appellant Counsel submit to the court Affidavits in Response to the Allegations submitted by Appellant;see(Exh F) objected to by Appellant.see (Exh G) Trial Counsel Mr. Dornburg sets out in his affidavit Petitioner is confused as to the complained of Juror; clearly on the Record.see(RR2;76,172 (Exh A)) and (Exh H).

Mr. Hayden concedes he had no Record of Petitioner being notified of the Courts Judgement and his Right to file a Petition for Discretionary Review as required by T.R.A.P. 48.4; Moreover, Counsel failed to submit to Requested documents by Appellant.see(Exh I).

On Jul. 24,2019, the Honorable Court "Granted" relief allowing an "Out-of-Time Petition for Discretionary Review", but denied motion for copies of briefs filed by Counsel or the State.see(App B)

REASONS FOR GRANTING THE PETITION

Texas Court of Criminal Appeals ignored Pro se Plea, which clearly shows "BIAS JUROR" ENPANELED.see(RR2:76;172(Exh A)), in a way that conflicts with Circuit Courts decisions in:U.S. v Kechedzian;902 F3d 1023(9th cir 2018) also U.S. v Crockett;514 F2d 64(5th cir 1975) and Ford v U.S.;201 F2d 300 (5th cir 1953). Further denying Petitioner his Constitutionally Guaranteed Right to a fair and Impartial Trial to his Conviction.

REVERSABLE CONSTITUTIONAL ERROR- "BIAS JUROR"

Petitioner from the outset has been argueing that 2nd Appellant Counsel Mr. Arnold Hayden needed to address "Bias Juror" present in the Jury Panel. Clearly in violation of Petitioners 6th and 14th Const. Amend. Right to a fair and impartial trial by a Unbiased, Unprejudiced Jury of his Peers; Evident from the Record "Bias Implied and Fact" see(Exh A) during screening of Voir Dire of Venire Members. Moreover Petitioner was denied by circumstance the opportunity to file a Pro se Responsive Suppliment Brief intended only to alert the Appellant Court to issue Apparent in the Record that Petitioner believes might be argueable on a Brief and on its merits. In-Re Shulman;252 S.W.3d 403(T.C.A. 2008) Qoute: Texas Practice; Criminal Practice and Procedure § 24.148 at 327(2d Ed. 2001)- "Such Procedures Protect Appellants with Non-Frivolous Appeals from being denied their full Right to Assistance of Counsel in Pursueing those Non-Frivolous Appeals".... To Attempt Resolution of this issue since Counsel Refused to address it and further Provide and/or Notify his client of briefs and "Memorandum Opinion".

Petitioner filed a motion with the Honorable Court to have "Mandate and Opinion" Recalled, showing clear "Reversible Constitutional" Error, Subject to Texas Rules of Appellant Procedure 44.2(A)(Exh C). With opportunity to file Out of Time P.D.R. to the Honorable Court,see (Exh D)... were summaraily denied by the Texas Court of Criminal Appeals. Date Aug. 8,2018.

As a matter of Texas Law: "A Venire Member Who Admits Bias or Prejudice is Disqualified to serve as a Juror.. Quoting: Texas Government Code § 62. 105(4).. Shepherd v Ledford; 962 S.W.2d 28 (Tx. Supreme Ct.1998).

T.C.C.A. Opinion ordered the issues Resolved.see(Exh E) Trial Court ordered Affidavits,see(Exh F) that Petitioner Objected to as a Confrontation Clause Violation citing Wall v State;184 S.W.3d 730(T.C.A.2006)- Quoting Crawford v Washington;541 U.S. 36, 124 S.Ct. 1354(2004).see (Exh G) in that Out-of-Court Statements are testimonial and subject to Cross Examination.

13th Court of Appeals Opinion is in and of itself wholly biased only on an "Untimely Rebrief" of Appellants Pro se brief. Absent "Arguable Issues" ordered to be briefed by New Counsel thru Court Order.see(App 7) (Order of Abatement) dated Jan. 5,2016, Remanding back to the 24th Judicial Court..."Bias Juror" issue "Unresolved"; and Court of Appeals irrational decision implying "A Rationale Jury could have Reasonably found"....(Op. at 7(App D)). Purporting that Jury was Rational and without bias and could fairly discern facts of the Case and Arrive at an Unbiased Verdict. When Mr. Roldan seated in the Jury Panel clearly insisted "he would not be fair" not once but 3 times...see(Exh A-line 17,20,22)

Texas Rule of Appellant Procedure 44.2(A) is clear..."If the Appellant Record in a Criminal Case Reveals Constitutional Error that is Subject to harmless Error Reviewed, the Court of Appeals must Reverse a Judgement of Conviction. Unless the Court determines beyond a Reasonable Doubt that the Error did not Contribute to the Conviction"...

Applicant Prays this Honorable Court find that All Unqualified "Bias" Juror was seated in the Afforementtional Case. Contrary to State, Federal Law and Constitutional Guarantees. Petitioner further Prays he be Remanded to Calhoun County Texas for a New Trial so he can Answer the charge against him in a Fair and Unbiased Trial. Or at a minimum to Order an Evidentiary Hearing that Applicant can be in attendence for.

Applicant further Prays in light of his Appeal never being properly briefed, as commanded, that his case be Remanded to Trial Court for Appointment of New Counsel..

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Date: February 15, 2020
March 17-2020