

No. 3-13-cv-98

19-8354

IN THE

SUPREME COURT OF THE UNITED STATES

NELSON, ROMERO

(Your Name)

PETITIONER

ORIGINAL

vs.

Lorie Davis

— RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

FILED

MAR 05 2020

OFFICE OF THE CLERK
SUPREME COURT, U.S.

U.S. District Court Southern District Texas, Galveston
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Nelson. Romero

(Your Name)

2101. FM. 369. N

(Address)

Iowa Park, TX. 76367

(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

Petitioner poses question to this Honorable court regarding final judgement under light of Due Process Clause of The 14th Amendment of the Constitution.

ISSUE: 1. EQUITABLE TOLLING ON A LIBERTY ISSUE AND THE ABILITY OF THE INTIGENT TO COLLABORATE FACT'S EXERCISE DUE DILIGENCE. FROM INSTITUTION IN ADMIN SEGREGATION.

ISSUE: 2. WITH RESPECT TO ENTRY OF FINAL JUDGEMENT
IN THIS ACTION FAILURE OF DISTRICT COURT TO CERTIFY ANY ISSUE FOR APPELLATE REVIEW. ON A FUNDAMENTAL LIBERTY ISSUE PERTAINING TO THE DUE PROCESS CLAUSE OF 14TH. AMENDMENT.

ISSUE: 3. PETITIONER FILED A TIMELY RESPONSE FOR APPEAL AND EXTENSION DIRECTIVES AND DEMONSTRATED DUE DILIGENCE IN PURSUING A LIBERTY ISSUE. PETITIONER PRESENTS THIS COURT WITH FUNDAMENTAL LIBERTY ISSUES NEEDED TO OVERCOME DISTRICT COURT'S DECISION FOR SUMMARY JUDGEMENT BASED ON A PROCEDURAL DEFECT - IT RULE 60(b)

ISSUE: 4. ORIGINAL ISSUE OF FUNDAMENTAL LIBERTY ISSUE BASED ON SUFFICIENCY OF EVIDENCE. NEVER DECIDED BY DISTRICT COURT DUE TO PROCEDURAL FLAWS PRESENTS A LIBERTY ISSUE.

ISSUE: PETITIONER DID NOT MEET DUE DATE FOR APPEAL BY 11. DAYS AFTER after DISTRICT COURT DISMISSED THIS CASE WITH PREJUDICE AND NO FURTHER PROCEEDINGS. PETITIONER FILED A MOTION FOR RECONSIDERATION. INSTEAD OF NOTICE OF APPEAL. MOTION WAS ALSO INTERPRETED AS A FILING OF 60(b). BY THE TIME I GOT PROPER HELP TO FILE CORRECT NOTICE OF APPEAL I MISSED DUE DATE BY ELEVEN DAYS IN FIFTH CIRCUIT. AND DISTRICT CT.

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

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APPENDIX A Final Judgement order Entered April 26.2018

APPENDIX B MEMORANDUM OPINION And order entered
July 2. 2019.

APPENDIX C Letter to 5th Circuit Court for Appeal July.30 2019

APPENDIX D Letter to 5th Circuit Court of Appeal's ~~Sept.17.2019~~ OCT. 4.2019

APPENDIX E DISMISSED from 5th Circuit Certified order
issued Sept. 17. 2019. with all that's taken place
from the time 5th circuit REMANDED this case. !

APPENDIX F

TABLE OF AUTHORITIES CITED

| CASES | PAGE NUMBER |
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| Jackson-v-Virginia. 99. S.C.T. 2781. (1979) | 7, 8, 9, 10 |
| brooks-v-State, 323. SW.3d. 893. Tex. Cr. App. 20. 7, 8, 9. | |
| Berry-v-ciga, 975. F2d, 1188 (5th. cir. 1992.) | 5, |
| U.S. v. Hitch Mon. 587. F2d. 1357. 5th. Cir. 1979. | |
| coleman-v-Sweetin, 745 F. 3d 402. 5th Cir. 2014) | |
| John-v-Louisiana 828. F2d. 1129 5th. Cir 1987. | |
| Slack-v-McDaniel. 529 U.S. 473, 120. S.C.T 1595. (2001) | |

STATUTES AND RULES

Rule 60 (b)

Rule 41. (b)

Due Process Clause of 14th Amendment, 6, 7, 10,

28 U.S.C 2254 (d) (1)

28 U.S.C 2254 (D) (2)

1

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 _____ 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 _____ 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 _____ 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 Sept 17, 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 _____ (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 September 17, 2019. A copy of that decision appears at Appendix E.

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 14th Amendment of The constitution of The United States, specifically The Due Process clause,

Statutes

Tex Code, of criminal procedure Art. 1107

Tex Code, of criminal procedure Art. 14.25

Federal. Rule 41. (b)

Federal rule 60 (b)

28 U.S.C 5cc 2254, (d) (1)

28 U.S.C 5cc 2254, (d) (2)

STATEMENT OF THE CASE

This writ of certioraria is not a matter of right but of judicial discretion. PETITIONER has no typewriter. April 24, 2019, petitioner filed a motion for extension for Appeal to fifth circuit. NO action warranted. I didn't understand how to file a proper appeal. After state court dismissed with prejudice and no further proceedings. By the time I got help and filed a proper appeal I was eleven day's late past due date. On August 12, 2019 I filed a proper NOTICE OF APPEAL. The due date was Aug. first. Petitioner never abandoned case. It's clear I didn't make due date. The underlying issue of liberty issues pertaining to sufficiency of evidence was never decided with no possibility of relief. fact+District Court closed all proceedings and not certifying any issue for Appeal. The actual brief could not be submitted in regards to filing of Rule 60(b) Interpretation.

ISSUE 1&2. Petitioner was ordered to submit a motion against Summary judgement, petitioner timely filed motion for extension and submitted motion. However the motion was taken as a Rule 60(b) filing for extraordinary relief. District Court ruled in favor of defendant. Issuing summary judgement closing all proceedings NOT certifying issues for Appeal so the brief could not be submitted in regard to filing of Rule 60(b) interpretation.

ISSUE 3. Whether Equitable Tolling and continued practice of due diligence in his liberty issue is unclear specifically when the underlying violation of the 14th Amendment issue has not been resolved.

ISSUE 4. The underlying issue of liberty issues pertaining to sufficiency of evidence was never decided with no possibility of relief. As the question is raised, do procedural defaults or flaws of indigent prisoner with 5th grade education based on our constitutional protections equate to fundamental flaw in due process resulting in the unlawful restraint of a citizen..

REASONS FOR GRANTING THE PETITION

Petitioner has exercised due diligence throughout these proceedings, as evidenced by appeals and letters. petitioner has a 5th. grade education and the complexity's. of federal Rules and procedures are beyond him.

Yes petitioner failed to meet the due date by 11. Eleven days. In between writing letters back and forth to fifth circuit and to U.S. Supreme court's. petitioner assumed he had 60. days to reply when he only had 30. However he never abandoned case. Such a ruling under the light of the due process clause of the 14th. amendment could establish a far reaching implication for not only indigent and uneducated, but predicate a denial of due process by specifically targeting the poor and uneducated therefore allowing underlying issues to go unresolved by causing undue burden and prejudice on litigants.

Petitioner has and continues to allege a fundamental liberty issue as outlined in the original complaint. petitioner has raised the argument that the court's, district court has abused its discretion and in the underlying issue of sufficiency of evidence there is well established precedent that needs to be upheld in the interest of justice as it relates to the 14th. amendment and the due process clause. This court's prevailing jurisdiction can resolve and establish a directive that will be adhered to.

CONCLUSION

Petitioner submits one motion for appointment of counsel
I also pray writ of certiorari and motion for counsel
be Granted.

The petition for a writ of certiorari should be granted.

Respectfully submitted,
NELSON ROMERO.

Nelson Romero

Date: March - 5th. 2020