

NO. _____

IN THE

SUPREME COURT OF THE UNITED STATES

RUTH TORRES – PETITIONER (Pro Se)

v.

**THE CONTINENTAL APARTMENTS, ALL CITIES TOWING, INC., CITY
VEHICLE STORAGE, INC. - RESPONDENTS**

**MOTION DIRECTING CLERK TO
FILE PETITION FOR WRIT OF CERTIORARI OUT OF TIME &
MOTION FOR EXTENSION OF TIME**

Ruth Torres, Pro Se
PO Box 224441
Dallas, TX 75222
Phone: 214-680-9119
Email: t.ruth828@icloud.com

1. Pro Se Petitioner, Ruth Torres, respectfully files this Motion in accordance with Rule 21, to the Clerk of The Supreme Court Of The United States directing the clerk to file the included petition for Writ of Certiorari out of time and submit this motion along with the petition to each individual justice of the Court.
2. For good cause set forth herein, Applicant asks the Supreme Court Of The United States to provide Pro-Se Petitioner with meaningful due process which has otherwise been withheld by the lower state courts. Absent this Court's grant of motion, extension of time and grant of Writ, for which exceptional circumstances exist which warrant the exercise of the Court's discretionary powers, adequate relief cannot be obtained in any other form or from any other court.
3. The Petition is late due to lack of notice of Texas' Supreme Court issuance of denial to review the petition October 18, 2019. Petitioner did not receive the notice via US mail. It is possible, if an email was sent to Petitioner, that it was not received due to lack of space capacity with the email service provider. Petitioner did not receive notice of the October 18, 2019 dated denial by mail, which has typically occurred in the past. Nor did

the Petitioner receive by email or mail the November 27, 2019 dated notice which reflects the signature of Blake Hawthorne but indicates issuance by Monica Zamarripa, which is curious and seems highly unusual itself. At the risk of sounding like a conspiracy theorist, Petitioner considers the possibility that the state court is annoyed with pro se Petitioner, the multiple appeals filed and for which the state court expects (based on prior but unrelated case) that Petitioner will appeal to SCOTUS and therefore did not submit notice to undermine timely appeal.

4. Petitioner did not have actual knowledge of the denial by Texas Supreme Court until on or about January 17, 2020 upon review of the docket and expeditiously prepared petition for Writ of Certiorari and required related documents in less than 10 days of actual knowledge and was included with application for extension of time postmarked January 22, 2020, was rejected by clerk as it was filed after the 90 day deadline of January 16, 2020.

5. Notice is a basic requirement of due process. *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950). See also *Richards v. Jefferson County*, 517 U.S. 793 (1996). Service must be reasonably structured to assure that the person to whom it is directed receives it. *Armstrong v. Manzo*, 380 U.S. 545, 550 (1965); *Robinson v. Hanrahan*, 409 U.S. 38 (1974); *Greene v. Lindsey*, 456 U.S. 444 (1982). Reasonable follow-up measure of submission of the notice by US Mail, not just email, should have occurred as

such would have been practicable to do. *Jones v. Flowers*, 547 U.S. 220, 235 (2006).

6. Petitioner has been denied meaningful due process in this case from inception. This Court exclusively hears cases based on its discretion, resulting in 1% of cases heard. Therefore, when the state courts deny due process and deny hearing on cases for which clear error and violations of constitutional rights exist, parties, especially in forma pauperis pro se parties lack recourse to obtain justice. Therefore, absent this Court's attention to this specific issue in this case and the larger egregious implications which not only significantly affected Petitioner but also affects all residential renters in the state of Texas due to an unconstitutional statute and/or the state court's interpretation and application of the same, injustice, violations of constitutional rights by unreasonable seizure of property and use of seizure by property owners to intimidate and force people to break their residential lease or be evicted will be reinforced and continue to occur.

7. Petitioner is entitled to be heard as petitioners rights have been and continue to be affected. *Matthews v. Eldridge*, 424 U.S. 319, 333 (1976). *Baldwin v. Hale*, 68 U.S. (1 Wall.) 223, 233 (1863). Notice of hearing and the opportunity to be heard must be granted at a meaningful time and in a meaningful manner. *Armstrong v. Manzo*, 380 U.S. 545, 552 (1965).

BACKGROUND

8. This case arises from Texas Occ. Code §2308, the Texas Towing and Booting Act. Petitioner challenges constitutionality of non-consent residential tow based on Texas Towing and Booting Act in its construction and/ or the courts' interpretation and application because seizure of personal vehicles from residence is being allowed absent any hearing by non-law enforcement personnel which has a personal interest and benefit for seizure solely based on presence of generic signage in establishing probable cause, lacking direct notice to or authorization by vehicle owner/operator or any law enforcement officer and removal not due to any safety or blockage of egress necessity.

9. The Act places the burden to show lack of probable cause (which is not defined in the Act) on the vehicle owner/operator whose vehicle was seized, instead of party(s) allowing and executing the seizure of vehicles. The Texas state courts have interpreted the presence of generic signage which states "unauthorized" vehicles will be towed as sufficient to establish probable cause. The residential property management company (The Continental Apartments) "outsourced" authority to seize vehicles at the towing/storage company's sole discretion and absent the residential property owner/manager or towing company issuing direct notice to the vehicle owner/operator. The towing company personally financially benefits from the non-consent residential tows. This outsourcing and practice is standard practice in Texas based on the Act and state courts interpretation of the Act.

10. In this instance, Petitioner was a resident loading and unloading at the loading dock with minor children, on a weekend after 10 pm in a downtown residence surrounded by construction and individuals loitering whom reasonably believed parking for less than 10 minutes was authorized due to status as resident, common practice by all residents, lack of notice to the contrary, lack of ability to reserve dock parking after 6pm and presence of construction and safety concerns.

11. Petitioner was required to pay \$174.50 to recover the vehicle from non-consent residential towing lacking notice before or after tow. This was the fourth time Petitioner was towed from the same residence, and for which vehicle damage occurred and repairs were refused by Respondents. Petitioner paid up to \$140 per month to park, where parking enforcement was not consistently applied to all residents and disparate impact based on race and income level occurred and where eviction followed immediately after Petitioner challenged the fourth towing in JP court and exercised freedom of speech by posting negative online comments about property management.

12. The court showed clear error in refusing to allow Petitioner to amend prior to seven days of trial, which is a ministerial act required of all civil cases per Texas Rules of Civil Procedure §63, and the courts failure to consider relevant and applicable Texas Property Code in considering the challenge of the

non-consent towing from residence and therefore determining the county court /trial court lacked jurisdiction outside of the establishment of probable cause to tow.

13. Further, the court showed clear error in failing to apply the kickback prohibition defined within the Texas Towing and Booting Act despite the Respondents/Defendant's residential property management acknowledgement of receiving a "thing of value", a \$50.00 gift card from the towing and storage company representative.

14. Appealed to the Texas Supreme Court on August 12, 2019, petition was denied on October 18, 2019, however, per the docket notice was only sent via email nor does the notice does not state what email address the notice was sent to. The Notice to the Court of Appeals was issued on November 27, 2019 signed by clerk Blake A. Hawthorne by Deputy Clerk Monica Zamarripa. Applicant has no record of having received the notice via US mail or email. Applicant did not have actual knowledge of the denial until on or about January 17, 2020 upon review of the docket and expeditiously prepared documents for Writ of Certiorari and required related documents.

OPINIONS BELOW

15. In accordance with standard practice in applying Texas Towing and Booting Act, Justice of the Peace, Judge Juan Jasso ruled presence of generic signage alone satisfied probable cause finding for Respondents.Appealed and affirmed by Judge Ken Tapscott of Dallas County Court at Law No. 4 interpreting lack of jurisdiction outside of probable cause for tow, denied Petitioner relief, denied application of relevant statute (Texas Property Code), denied ability to amend, denied discovery requests and request for sanctions due to spoliation and ignored kickback prohibition defined in the act in issuing conclusion of facts established at trial that \$50.00 gift card was not of sufficient although Act prohibits “directly or indirectly give anything of value”.

16. The trial court finding for Respondents were awarded \$6,850 in attorney fees.

17. Fifth Court of Appeals erred in law by affirming jurisdiction was limited to probable cause ordering Petitioner to pay costs of appeal contrary to statute (TRAP §43.4) as unchallenged affidavit of inability to pay is on file. Opinion by Justice Partida-Kipness, joined by Justices Whitehill and Pedersen, III (unpublished). Motion for rehearing pointing out clear errors was denied.

18. In accordance with TEX. R. APP. PROC. § 56.1(b)(1) the Texas Supreme Court had a duty to review the petition due to presence of clear error that requires reversal and is of importance to jurisprudence of the state. There

are clear errors that have occurred in this case which are important matters to the state, because the issues in this case involve public policy issues, state and federal violations.

19. If this Honorable Court refuses to grant time extension, hear and rule on Plaintiff's Petition, it allows the state courts to violate Petitioner's rights to due process and equal protections per the United States Constitution's Fourth and Fourteenth Amendment in unreasonably seizing property then failing to allow Petitioner discovery, relief or to amend and in denying petitions for review, failing to provide notice of denial undermining timely submission of appeal to SCOTUS.

20. If this Honorable Court refuses to grant time extension, hear and rule on Plaintiffs Petition, injustice will continue to occur, which is a public policy issue affecting not just the Petitioner but all individuals of similar situations occurring across the state and for which the costs and stress associated with litigation result in affected individuals to be forced to pay hundreds of dollars to recover unreasonably and unconstitutionally seized vehicles.

21. Plaintiff completely relies on the Holy Bible, The Word of God. Government and court system are established based on Biblical principles. Romans 13:1-7. Judges are called and appointed to show no partiality, to give justice to the poor. Exodus 18:13-27, Deuteronomy 16:18-20, Leviticus 19:15, James 2:1-13, Luke 18:1-8, Proverbs 21:3, 13 and 15. These are the principles

incorporated into the Code of Judicial Conduct. Perhaps there is justice in many cases. However, even one case that allows injustice affects people's lives and should not be considered a light matter:

"Consider carefully what you do, because you are not judging for mere mortals but for the Lord, who is with you whenever you give a verdict. Now let the fear of the Lord be on you. Judge carefully, for with the Lord our God there is no injustice or partiality or bribery." 2 Chronicles 19:6-7

And

"Injustice anywhere is a threat to justice everywhere. We are caught in an inescapable network of mutuality, tied in a single garment of destiny. Whatever affects one directly, affects all indirectly." Dr. Martin Luther King, Jr.

JURISDICTION

22. This Court has jurisdiction under 28 U.S.C. § 1257(a).

REASONS EXTENSION IS JUSTIFIED

23. Supreme Court Rule 13.5 provides that "An application to extend the time to file shall set out the basis for jurisdiction in this Court, identify the judgment sought to be reviewed, include a copy of the opinion and any order respecting rehearing, and set out specific reasons why an extension of time is justified." Sup. Ct. R. 13.5. The specific reasons why an extension of time is justified are as follows:

- a. The Texas Supreme Court failed to properly and timely issue actual notice to Petitioner of denial of review to allow for Petitioner to timely submit petition for Writ of Certiorari.

- b. Due to lack of notice, Petitioner was unable to timely submit petition nor request extension of time prior to 10 days of deadline.
- c. Petitioner appealed within less than 10 days of actual knowledge of denial.

CONCLUSION

For the foregoing reasons and good cause shown, Petitioner implores this Court refuse to allow those in positions of wealth and power to arrogantly and cunningly manipulate and abuse power of the courts to trample upon constitutional rights in furtherance of injustice for their own purposes.

Petitioner requests the Court grant this motion, grant extension of time, accept and grant petition for writ of certiorari.

2,147 words are contained in this motion. I hereby certify that a true and correct copy of the foregoing instrument has been delivered to all parties and/or counsel of record on February 5, 2020.

1. Mr. Roberto Rodriguez
2. Jennifer Owen
3. Mr. Jack Norman

Respectfully submitted,



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Phone: (214) 680-9119

Appendix: SCOTUS Clerk Letter rejecting petition.

**SUPREME COURT OF THE UNITED STATES
OFFICE OF THE CLERK
WASHINGTON, DC 20543-0001**

January 27, 2020

Ruth Torres
P.O. Box 224441
Dallas, TX 75222

RE: Torres v. The Continental Apartments, et al.

TXSC No. 19-0692

Dear Ms. Torres:

The above-entitled petition for a writ of certiorari was postmarked January 22, 2020 and received January 27, 2020. The papers are returned for the following reason(s):

The petition is out-of-time. The date of the lower court judgment or order, denying a timely petition for rehearing was October 18, 2019. Therefore, the petition was due on or before January 16, 2020. Rules 13.1, 29.2 and 30.1. When the time to file a petition for a writ of certiorari in a civil case (habeas action included) has expired, the Court no longer has the power to review the petition.

Sincerely,

SCOTUS Clerk

Appendix: Texas Supreme Court Notice

FILE COPY

IN THE SUPREME COURT OF TEXAS

NO. 19-0692

RUTH TORRES	§	
v.	§	Dallas County,
THE CONTINENTAL	§	
APARTMENTS, ALL CITIES	§	5th District.
TOWING, INC., CITY VEHICLE	§	
STORAGE, INC.	§	

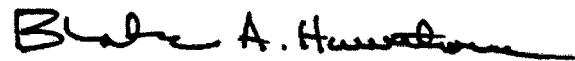
October 18, 2019

Petitioner's petition for review, filed herein in the above numbered and styled case, having been duly considered, is ordered, and hereby is, denied.

★ ★ ★ ★ ★ ★ ★ ★ ★

I, BLAKE A. HAWTHORNE, Clerk of the Supreme Court of Texas, do hereby certify that the above is a true and correct copy of the orders of the Supreme Court of Texas in the case numbered and styled as above, as the same appear of record in the minutes of said Court under the date shown.

WITNESS my hand and seal of the Supreme Court of Texas, at the City of Austin, this the 27th day of November, 2019.



Blake A. Hawthorne, Clerk

By Monica Zamarripa, Deputy Clerk

FILE COPY

RE: Case No. 19-0692 DATE: 10/18/2019
COA #: 05-18-00215-CV TC#: CC-17-03695-D
STYLE: TORRES v. CONT'L APARTMENTS

Today the Supreme Court of Texas denied the petition for review in the above-referenced case.

RUTH TORRES

* DELIVERED VIA E-MAIL *

FILE COPY

RE: Case No. 19-0692 DATE: 10/18/2019
COA #: 05-18-00215-CV TC#: CC-17-03695-D
STYLE: TORRES v. CONT'L APARTMENTS

Today the Supreme Court of Texas denied the petition for review in the above-referenced case.

MS. JENNIFER L. OWEN
HIGIER ALLEN & LAUTIN, P.C.
2711 N. HASKELL AVE., SUITE 2400
DALLAS, TX 78204
* DELIVERED VIA E-MAIL *

FILE COPY

RE: Case No. 19-0692 DATE: 10/18/2019
COA #: 05-18-00215-CV TC#: CC-17-03695-D
STYLE: TORRES v. CONT'L APARTMENTS

Today the Supreme Court of Texas denied the petition for review in the above-referenced case.

MS. LISA MATZ
CLERK, FIFTH COURT OF APPEALS
600 COMMERCE, SUITE 200
DALLAS, TX 75202-4658
* DELIVERED VIA E-MAIL *

FILE COPY

RE: Case No. 19-0692 DATE: 10/18/2019
COA #: 05-18-00215-CV TC#: CC-17-03695-D
STYLE: TORRES v. CONT'L APARTMENTS

Today the Supreme Court of Texas denied the petition for review in the above-referenced case.

COUNTY CLERK DALLAS COUNTY
DALLAS COUNTY COURT
509 MAIN STREET SUITE 200
DALLAS, TX 75202
* DELIVERED VIA E-MAIL *

FILE COPY

RE: Case No. 19-0692 DATE: 10/18/2019
COA #: 05-18-00215-CV TC#: CC-17-03695-D
STYLE: TORRES v. CONT'L APARTMENTS

Today the Supreme Court of Texas denied the petition for review in the above-referenced case.

MR. ROBERTO RODRIGUEZ
HIGIER ALLEN & LAUTIN
2711 N HASKELL AVE STE 2400
DALLAS, TX 75204-2926
* DELIVERED VIA E-MAIL *

FILE COPY

RE: Case No. 19-0692 DATE: 10/18/2019
COA #: 05-18-00215-CV TC#: CC-17-03695-D
STYLE: TORRES v. CONT'L APARTMENTS

Today the Supreme Court of Texas denied the petition for review in the above-referenced case.

MR. JACK O. NORMAN
JACK O. NORMAN, P.C.
6510 ABRAMS ROAD, SUITE 568
DALLAS, TX 75231
* DELIVERED VIA E-MAIL *

**Additional material
from this filing is
available in the
Clerk's Office.**