

No. 20-6686

IN THE
SUPREME COURT OF THE UNITED STATES

FILED
DEC 09 2020
OFFICE OF THE CLERK
SUPREME COURT, U.S.

Benjamin R. Stewart ~~XXXX~~ - PETITIONER
(Your Name)

vs.

Bobby Lumpkin ~~XXXX~~ - RESPONDENT(S)

ORIGINAL

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals Fifth Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Benjamin R. Stewart ~~XXXX~~
(Your Name)

Wynne unit 810 fm 2821
(Address)

Huntsville, Texas, 77349
(City, State, Zip Code)

(N/A)
(Phone Number)

QUESTION(S) PRESENTED

I.

- Intro. To set scene.

The S.C.O.T.U.S., in Trevino v. Thaler 133 S. Ct. 1911 said that Texas, because of a failed "procedural scheme" (Note: Texas even "Blows the whistle" on their own Court, to Confess, in Dissent, in Ex parte Garcia 486 S.W.3d 565 to Back the S.C.O.T.U.S. in Trevino v. Thaler) For Addressing Ineffective Assistance of Trial Counsel claims, is Denying, (as I was Denied), Americans their "Right" (As afforded to them by the S.C.P.T.U.S. in Evitts v. Lucey 469 U.S. 387) to have Counsel to prepare and present their Ineffective Assistance of Trial Counsel claims, on Direct Appeal. I am a victim of this, "scheme" - I am Innocent, Appointed Counsel on Appeal was "Nominal" in Representation, he Refused to speak to me, Refused to Discuss errors on Ineffective Assistance of Trial Counsel outside of the Record, obviously, He allowed the (30) day "Window" to File Motion for New Trial to Lapse - (The Record? please note - is exactly "New" Ready For use During the 30 day "Window" to File Motion for New Trial that is Mandatory To preserve errors like from Ineffective Trial Counsel so they can be Raised on Direct Appeal as is needed, "with Counsel" to help as The S.C.O.T.U.S. said in Evitts v. Lucey 469 U.S. 387) so I could no longer use said motion to preserve said errors for presentation on Direct Appeal - as happens to everybody. The Appeal Ct. Ignored my timely, and endless, complaints and I was thus, as Countless 1000's of other Americans are - Denied my Right to have a lawyer prepare, and present - my substantial, and substantiated (I did finally get a family member to buy the Record the state "withheld" from me) - claims of Ineffective Assistance of Trial Counsel on Direct Appeal, and this lost Right to Counsel Denied me, as it does to so many others, their Fundamental Right to Due process, and a Fair Trial. ... All because they were not able to Recieve Constitutionally Guaranteed, "minimum safe guards" that they are, we are, entitled to, to make our Appeal adequate and effective, & actually on the merits to adequately and effectively Appeal the Injustice of Ineffective Assistance of Counsel at Trial, ... and a Fundamental miscarriage of Justice will occur to me, and countless others, IF those Constitutional guarantees are not fulfilled with new precedent, by Amending Trevino v. Thaler, to give "Actual" Relief, which said Trevino v. Thaler case Denies, and which the S.C.P.T.U.S. case of Evitts v. Lucey does give, by way of Counsel, and, Habeas Relief. I raised all my claims in Appeal Court P.O.R. After I was Denied Justice in state Appeal Court, I raised the claims in state Habeas Court, Twice - in U.S. District Court, and in the U.S.

Court of Appeals Fifth Circuit (who "PICKED" a case in conflict with S.Ct.U.S. precedent to "Take Away" Jurisdiction to Review my claims) and All Courts have Refused, Despite oath of office and Article VI of our U.S. Constitution to Defend our U.S. Constitution, (that I have) to Fulfill - Constitutional Guarantee, which Denies me Due process, and a Fair trial. please understand, that I am "HURT" by Injustice, and so I write from a place of Amazing Torment in my mind - & the abuse in prison - Does not help - and so I ask for "Honor" and patience from This Court.
X Please X

① Does the S.Ct.U.S., in Trevino v. Thaler above, expect that BYMATIC the Constitutionally violated would suddenly be able to prepare, and present - Their Ineffective Assistance of Trial Counsel claims in the U.S. District Court, or, did they just intentionally ignore what is "The Necessity" of a Lawyer, as described, by themselves, in Evitts v. Lucay (Also above) Required to present claims that would be very "Hopelessly Forbidding" as the S.Ct.U.S. says, for a "Lay Person" to do, without a Lawyer to Assist?

② Should the U.S. District Court Appoint Counsel, when Asked, or - otherwise, to Habeas Corpus petitioners, to Assist with preparing, and presenting, Their Ineffective Assistance of Trial Counsel, and Related, claims when petitioner was Denied Counsel, or otherwise, so to the Failed procedural Scheme, in states like Texas, for Addressing the said claims on Direct Appeal, (as described in the case of Ex parte Garcia 486 S.W.3d 565 where Texas' own "Justices" Alcala and Johnson, in Confession, by "Blowing the Whistle" on their own court just to substantiate the claims of the S.Ct.U.S. in Trevino v. Thaler 133 S.Ct. 194) In Light of The Fact: ① that the S.Ct.U.S. in Evitts v. Lucay 469 U.S. 387 said that "The obvious truth is that Lawyers are necessities and not luxuries", and that the requisite tasks would be, "Hopelessly Forbidding" for a, "Lay Person" (Assuming it does not, for everybody else also, get "Magically" easier to prepare, and present, The same claims in U.S. District Court for a Lay Person) and ② In Light of the Fact that said "Scheme" Constructively, and otherwise, very effectively Denies Appellants this specific "necessity" described in Evitts v. Lucay, which is needed to guarantee Effective Trial Counsel, Due process of Law, and a Fair trial - - In order to "Actually" fulfill the guarantee of Counsel on Direct Appeal as is described in Evitts v. Lucay - or - should the U.S. District Court just Reverse and Remand, or give 0 the Relief, like that offered in Evitts

V. Lucy where the S.C.P.T.U.S. Granted Relief on the whimsical writ of Habeas Corpus - Because a Fundamental Right to Counsel was Denied preventing a Fair Appellate process, preventing Due process, and preventing a Fair Trial, as Constitutionally Required?

③ Are the Supreme Court cases, Trevino v. Thaler 133 S. Ct. 1911, and Evitts v. Lucy 469 U.S. 387 IN CONFLICT, such that the S.C.P.T.U.S. in Trevino v. Thaler erred, Leaving countless Americans Constitutionally violated without Habeas Relief like from in Evitts v. Lucy, and/or, for having left the violated a "Lawyerless" form of Relief, to prepare and present, "The Same" Ineffective Assistance of Trial Counsel claims, in U.S. District Court - ~~that~~ that the S.C.P.T.U.S. had to know did not satisfy the legal standard, set by themselves, in Evitts v. Lucy - that guarantees "entitlement" to certain "minimum safe guards, namely Effective Assistance of Counsel - that is necessary to make an appeal, adequately, and effectively, of claims like Ineffective Assistance of Trial Counsel as Constitutionally Required, to actually guarantee, a guarantee?

④ Does it violate The Equal protection clause of the 14th Amendment, or Due process - to not give the class of American Appellant "stuck" in the faulty Scheme for Addressing Ineffective Assistance of Trial Counsel claims in Texas, and similar states (as described in Trevino v. Thaler 133 S. Ct. 1911, and substantiated by Texas' own Justices, in dissent in Ex parte Garcia above) by not giving them then the same, "Equal", form of protection given in Evitts v. Lucy 469 U.S. 387, to the more valuable Humans that get Counsel and Right to Assist; when Appellant did not receive the minimum safe guards necessary (namely Effective Counsel) to make a First Instance (at least) Appeal on their Ineffective Assistance of Trial Counsel claims, (the "same" claims not allowed on Direct Appeal) adequate and Effective when Filed (pursuant to S.C.P.T.U.S. Relief) in U.S. District Court, as Encouraged, Aided, Directed, etcetera, in Trevino v. Thaler?

⑤ Should Federal Rule 2254i (From Federal Rules of Civil and Criminal procedure) Apply in not allowing Ineffective Assistance of Appeal Counsel be a, "ground for relief" for Habeas

Applicants From states Like Texas considering the Failed procedural system for addressing Ineffective Assistance of Trial Counsel claims on Direct Appeal, as Described by the SCOTUS. In Trevino v. Thaler 133 S. Ct. 1911, and by Texas' own Highest Court of Appeals By Justice Alcala, and Johnson, in Disent In Ex parte Garcia 486 S.W. 3d 565, or should this Rule be Reversed, or Yield to the Americans' Superior Right to Counsel, that the Rule Hinder, so Americans can Actually seek Fulfillment of Lost Right to Constitutional Guarantee, considering that Counsel did not "adapt" to the Failed procedural system - to compensate somehow, to overcome the Lynch Mob Affect that everybody sees, to still Appeal Ineffective Assistance of Trial Counsel, and Related claims, in order to protect Due Process Rights, and the Fundamentally essential Fair Trial?

⑥ Does Federal Rule 2254 violate, ~~or~~ or Risk violating the Equal protection clause of the 14th Amendment, and or Due process, and or the 6th Amendment Right to Counsel, by Denying Right to seek Fulfillment of Constitutional Guarantee that was Denied, By Refusing, in any way, at any time, Ever, to those Americans that were constitutionally violated by having lost their Right to Counsel on Appeal "The same" protection, and "Safe Guards", under the law. and procedural Rule - that those same valuable Americans get to have, without being Hindered by a similar Rule, that are seeking "The same" Fulfillment of Lost Right to Counsel from trial, where Counsel was, Literally, "Guaranteed" at both trial, and Appeal - in Elitts v. Lucey 469 U.S. 387?

II.

Intro. to set scene

In Elitts v. Lucey 469 U.S. 387, the SCOTUS. knowingly, and intentionally (Because they are smart) ignored, and thus "Left out" the very Indisputable existence of the Third (3rd) "side" - (I, as A, For TRUE LOVE cause" → 6, 320, 196) of "Interested party Advocacy" involved in each criminal (and civil) case, when they said, "the very premise of our adversarial system of criminal justice is that partisan advocacy on Both sides of a case will best promote the "ultimate objective" that the guilty be convicted, and the innocent go free".

The Third party, "Interested party" known, to the world, since

The Devil's (called a Justice) Oredscott Decision to appease the Judge - and exactly not Justice, is the Judge - who fears neither Man nor God, "See Luke 18:2"; But the Judge, aside from his very personal and partisan 3rd side of Advocacy, has also, while only - "Technical", an indisputable, and partisan interest under Article VI of our U.S. Constitution, and under his, "oath of office", which commands him to Honor, and Defend, said Article VI, to not let a Rule or case Law, "Hinder" fulfillment of U.S. Constitutional Guaranteed Right, to Counsel, to Due process, and to a fair trial - because Rules, and Laws that "Hinder" said fulfillment, were made in the "Hinderance" thereof said fulfillment, and exactly not in the pursuance thereof said fulfillment - under Article VI which was created, clearly, so that none of our people get Left Behind - However, since Oredscott, and at every level of Court, from Trial Court to the S.C.O.T.U.S. ⇒ American Judges, in every state, on their own fruition, unaided by either the accused, or the accuser, "side" of Advocacy, "choose to pick" for their the Judges' 3rd side of Advocacy, a procedural rule, and/or a case-law ruling, to prevent themselves from defending our U.S. Constitution, in total disregard for the Soul of America (Luke 16:19-31) - to literally prevent themselves from fulfilling Constitutional GUARANTEE, - "Rather" than to pick, and use, pursuant to his oath of office, and the Constitutional Directive in Article VI of our U.S. Constitution, said side of advocacy, to hear a case - and this third (3rd) Blindfolded by oppressiveness - and "The Lynch Mob" to the disadvantage of the accused - and the U.S. Constitution that would have, indisputably aided the accused, for Justice - but for the Judges' Advocacy, for ① Himself to clear his desk, ② The accuser who is - thanks to the S.C.O.T.U.S. in Furber v. Puchman (1976) allowed to very deliberately violate the U.S. Constitution, "Lynch Mob style", to seek for Justice, and ③ For case law that in function "Hinders", in violation of Article VI in our Constitution, the Americans Right to a Lawyer, to Due process, and to the elusive, but still fundamental Right to a fair trial on United States soil, "et cetera" -

To be clear, Judges are not Devine Beings, and, in fact - have been told, by a Devine, and thus Devine Entity, that Judges

Can be, too often, compared to "Judas", through which the devil, SATAN, entered to conduct Evil - and, so it is, that Judges have, in the course of history, made Rule, and made Law, by and through their "rulings" that are made, as seen under the Red, white, and Blue, light of Article VI, paragraph (2), of our U.S. Constitution - Both Benevolently, "In the pursuance" (there) of Fulfillment of Constitutional Right, and $\Rightarrow$ For Aforementioned Evil - also "Malevolently", as History has proven, by people called "Justice" "To Deceive" $\Rightarrow$ since the Dred Scott Decision, "In the Hindrance" (there) of (Because of Judas Judges J.J.) Fulfillment of the people's united states constitutional rights as they did with the case of, "Black v. Davis 902 F.3d 541, 545 (5th Cir. 2018) Cert. denied, 140 S. Ct. 859 (2020)", which, according to God, to Love, and to "Actual" Justice - is void Ab Initio - for having been made in conflict with, and in the Hindrance of, Article VI of our U.S. Constitution, and Schulp v. Del 513 U.S. 298; 115 S. Ct. 851. * I even gave the 5th Cir. Ct. newly discovered, and previously unavailable Esculpatory Evidence, that not only proves my "Innocence", but also substantiates my claims of Constitutional violation - and they still chose, "To pick Black v. Davis, to not consider" my case, and this affects countless Americans, all across America - because they, the courts, See Appendix A, & Appendix C, pick Black v. Davis to say they can not "consider" the people's cases, that they make a "B.S." $\Rightarrow$ "To keep" statements to confirm meaningless Reviews, and then keep Justice, and Americans all across will continue to be hurt by this Injustice, unless I am granted Habeas Relief, and Released from prison!

① Is it Reasonable to Assume, in light of The Dred Scott, and similar Court "occurrences", that Judges of the United States circuit Courts of Appeal might not give Americans, "meaningful consideration", when Judges decide "To pick", and use, (What is arguably for the Judges 3rd side of Advocacy) Black v. Davis 902 F.3d 541 (5th Cir.

(2018), Cent. Denied, 140 S. Ct. 859 (2020), to "Take away" their Jurisdiction, so they can say they lack Jurisdiction even, "To consider" - See See "order used as mandate from 5th circuit court sept 08, 2020, in Stewart v. Lumpkin #19-10924 Appendix B B - Americans' substantiated claims of constitutional violation, that prevented a fair trial - "Considering the fact that they could have, 'Sustained' decided, 'Topick', instead, but did not - Article VI of our U.S. Constitution, and, or, Schulp v. Delo 513 U.S. 298, 115 S. Ct. 851 in order "to keep" Jurisdiction. "To consider" the case - and if it is possible, at all, that meaningful consideration might not begin, and a guarantee is made a lie, to Americans that learned in school that guarantee means guarantee, is it worth the risk in light of the words "guaranteed" right in our laws - that Black v. Davis Be, "constitutionally" available to Judge "To pick" for their side of advocacy, or, otherwise, what Schulp v. Delo, and Article VI of our U.S. Constitution are available for Justice, The 'Actual' kind?

② Is Black v. Davis in conflict with, "The ultimate objective" of letting the Innocent go "Free", in anyway, at all. as described by the S.C.T.U.S. in Elitts v. Lucy 469 U.S. 382, and does the word "guarantee", as used by the S.C.T.U.S., supposed to mean what it does to English speaking people, who actually believe guarantee actually means "guarantee"?

③ Is Black v. Davis in any way in conflict with Article VI of our U.S. Constitution, or any other part of it, our Constitution, that does give Jurisdiction, "To consider", and fulfill the American people's constitutional "guarantees" to insure guaranteed right to a lawyer, to due process, and guaranteed right to a fair trial on United States soil - is it at all, in anyway unconstitutional?

④ Is Black v. Davis in conflict, in anyway, with Schulp v. Delo 513 U.S. 298, 115 S. Ct. 851, considering the fact that Schulp v. Delo, for Justice does give Jurisdiction "To consider" claims of constitutional violation, and the fact that Black v. Davis, is used to take that Jurisdiction away?

⑤ Was said Black v. Davis, which is used by the United States

courts of Appeal Judges, to be able to, "Takeaway" their own Jurisdiction "to consider" - (See order/mandate from 5th circuit court Sept 08, 2020 on case #19-10974 denying replevy) The American people's claims when they have been denied their fundamental, and "guaranteed" Right - to counsel, to due process, and to the fair trial that counsel would have provided but for being ineffective in his assistance, and but for the judge using Black v. Davis to "not" have jurisdiction, "to consider" the case made "In the pursuance" thereof, or, in the vindication thereof, fulfillment of fundamental and constitutionally "guaranteed" Right, on United States soil?

⑥ Is Black v. Davis, in any way, at all, ever, in conflict with the American Judges, "oath of office", "to defend" the U.S. Constitution that was left violated on U.S. soil, by the case Black v. Davis?

⑦ Should counsel be appointed, and/or - should other precautions be made to insure that the, "Retaliation" - which could very "possibly" happen, to further violate constitutional right - does not happen - when the S.Ct., U.S. Rules Against the Decision, and against the newly shamed, Dis Honored, and Disgruntled Judges of the United States Courts of Appeals, considering the fact that Judges, for their own side of Advocacy, have been known to Rule that Black people are not Equal, with absurd lies, like, "separate but equal?"

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:

Bobby Lumpkin, Director, Texas Department of Criminal Justice, Corrections Institutional Division

RELATED CASES

- (1-4) State of Texas v. Benjamin R. Stewart nos. 13360160, 13360150, 13360140, & 13360130, 372nd Judicial District Court Tarrant County, Texas Judgment entered 12-09-2014.
- (5-8) Benjamin R. Stewart v. The State of Texas nos. C-372-011087-1336016-A, C-372-011089-1336015-A, C-372-011090-1336014-A, C-372-011087-1336013-A Second District Court of Appeals, Tarrant County, Texas, Judgment Affirmed on June 6 2016.
- (9-12) Benjamin R. Stewart v. The State of Texas nos. PD-0665-16, PD-0663-16, PD-0664-16, PD-0662-16 (Petitions For Discretionary Review) Second District Court of Appeals, Tarrant County, Texas, Refused on 11-09-2016.
- (13-16) Benjamin R. Stewart v. Lorie Davis, Director, Texas Department of Criminal Justice, Corrections Institutional Division, nos. WR-87,836-02; WR-87,836-04; WR-87,836-03; WR-87,836-01 Texas Court of Criminal Appeals Judgment Date entered is not available to me in my prison cell, paper work stolen, by TDCJ.

(17-20) Note: I Filed an 11.073 Junksource Writ of Habeas Corpus on each case, ~~and~~ ^{all} ~~all~~ ^{all} cases, in the Texas Court of Criminal Appeals. But my legal work has been stolen by the T.D.C.J., and I can not get Copies - or Dates, or, anything. I am in it till with exactly no hope, unless I get a miracle.

(21-22) Benjamin R. Stewart v. Bobby Lumpkin, Director, Texas Department of Criminal Justice, Corrections Institutional Division Nos. 4:18-cv-509, and 4:19-cv-152 U.S. District Court Northern District, Fort Worth Division, Judgement Date entered is unavailable to me because it was stolen by the T.D.C.J. my prison, by the guards.

(23) Benjamin R. Stewart v. Bobby Lumpkin, Director, Texas Department of Criminal Justice, Corrections Institutional Division No. 19-10974, U.S. Court of Appeals, For The Fifth Circuit, Judgement entered Sept. 08, 2020.

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APPENDIX B	Decision of the U.S. District Court, Northern District Fort Worth Division, unavailable to me in my prison cell
APPENDIX C	Decision of U.S. Court of Appeals for the 5 th circuit, Denying Justice on "out of time" petition for Rehearing.
APPENDIX D	Decisions of Texas Court of Criminal Appeals on Habeas Corpus unavailable to me in my prison cell.
APPENDIX E	N/A
APPENDIX F	N/A

TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
① Trevino v. Thaler 133 S. Ct. 1911	4, 5, 6, 7, 22, 28
② Ex parte Garcia 486 S.W. 3d 565	45, 7, 23
③ Elvitts v. Lucy 469 U.S. 387	4, 5, 6, 7, 10, 24, 26, 27, 29
④ Fumler v. Pachman (1976)	8, 27, 28
⑤ Black v. Davis 902 F. 3d 541, 545 (5th Cir. 2018), Cent. Dist., 140 S. Ct. 859 (2020)	9, 11, 25
⑥ Schulp v. Delb 513 vs 298; 115 S. Ct. 851	9, 10, 25
⑦ Stewart v. Lumpkin # 19-10924 5th Circuit Court.	10
⑧ Plessy v. Ferguson	29

STATUTES AND RULES

- ① Federal rules of Criminal procedure rule 22.54(i) — 6, 7, 23.
- ② Federal rules of Civil procedure rule 22.54(i) — 6, 7, 23.
- ③ ~~NOTED~~

OTHER

Luke 18:2	8
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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 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 United States district court appears at Appendix B 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 D 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 08 2020.

☒ 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: (N/A), and a copy of the order denying rehearing appears at Appendix (N/A).

☐ An extension of time to file the petition for a writ of certiorari was granted to and including (N/A) (date) on (N/A) (date) in Application No. A (N/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 Don't know?.
A copy of that decision appears at Appendix (N/A). I Don't have Copies.

☐ A timely petition for rehearing was thereafter denied on the following date: N/A, and a copy of the order denying rehearing appears at Appendix N/A.

didn't know I could do this.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including (N/A) (date) on (N/A) (date) in Application No. (N/A) A (N/A).

Didn't know I could do this
and the SCOTUS knows it.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

① U.S. Constitution Article VI paragraph (2)

"This Constitution, and the laws of the United States which shall be made in the pursuance thereof, and all Treaties made, or which shall be made, under the Authority of the United States, shall be the Supreme Law of the Land, and the Judges in every State shall be bound thereby, anything in the Constitution or Laws of any State to the contrary notwithstanding

② Federal 2254;

I do not have access to legal books in my presence. But it says, "Ineffective Assistance of Counsel on Appeal cannot be used as a 'Ground for Relief' in Habeas Corpus." I think, so we cannot fulfill Constitutional Guarantees that is given in Evitts v Cures 364 U.S. 487, for Appeal counsel

STATEMENT OF THE CASE

I was accused of hitting a car "square on" from the back, to disable them, such that they were stuck in the middle lane of the highway - whereby a Truck and Trailer came by to hit & kill the people in the car, a Toyota Camery. The truck that killed them was a Ford F450, and its Trailer Towed (2) 7500 LB Movers unit - I was driving a Dodge single cab 2 door pickup.

What actually happened was that I got on the Highway to take the very next exit. The Road is Flat there between exits - so any lights, it was right time, would have been seen, easily, but I saw no lights in front of me in the Right Lane going to that next exit. Then, a Truck got in front of me, in the Right Lane, having come from behind me, presumably to take the next exit, and they hit the Toyota Camery that I am accused of hitting. That was parked, or going very slowly, in the Right Lane of the Highway, with no lights on, presumably, because they had just been in a separate Accident, and from this new Accident, with the Truck that got in front of me, the car was left in the middle lane, for the Truck and Trailer to hit and kill them, even though a multitude of others (witness proven it was busy) just went around. I swerved off the Highway to miss the Accident in front of me - and I ran over a culvert, and hit a sign, & I will take a polygraph test to prove I never hit that Toyota Camery.

For (3) three days, the Great American Lynch Mob told the Jury that I hit and disabled the car, for the Truck and Trailer to hit and kill them, through an Expert Accident Reconstructionist who lied, on purpose - proven by the fact that - while checking the level of Gas in said car, long after his original, complete, and Final Examination - he miraculously (note: I will stipulate that it is theoretically possible that the Gas "fumes" made him so high that he was put into "the spirit world" - like from Young Guns the movie - where he had himself a "vision", and suddenly became "aware", and could see - Finally, ... As if with his 30 years experience, as an "Expert" Accident Reconstructionist, he could not see it before) saw that the "unique" Damage on my pickup is an obvious "V" shaped dent. Which in no way, at all, could have come from hitting the Toyota Camery & allegedly hit - (note: nobody said a word about him telling the Jury for 3 days that ALL my Damage came from hitting the Toyota Camery!) and The expert then, using the picture of the sign & hit, that he took before the trial started, before he told the Jury, for 3 days, that ALL of my

pickups Damage came from hitting the Toyota came to pre-judge then - He matched the "V-Dent" in my Bumper, and Hood it ~~to~~ the sign that, After swerving off the Road, to miss the Accident in front of me.

The expert has confessed on Record (FFinally got this previously unavailable Evidence and gave it to the 5th circuit court!) such that when Asked, if ANY of the Damage to the front of my pickup and to the front Bumper came from hitting the car he said, Absolutely NOT - but the Lynch mob withheld this exculpatory Evidence and other exculpatory evidence, and I was not able to get it to the courts - until I got it to the 5th circuit court, but obviously - if none of the Damage on my pickup, which was only on the front of my pickup, and to my front Bumper, came from hitting the car, then I did not hit the car -> But my Attorney Refused to press the issue - for anyway, despite my requests - and not only was the Jur prejudiced, with (3) three full days of false testimony, but the expert went back to saying I hit the car without my lawyer defending me - and I got Found Guilty - having lost my Fake guaranteed Right to Counsel, Fake guaranteed Right to Due Process, and Fake guaranteed Right to a Fair Trial - I was left needing to Appeal the ineffective Assistance of Trial Counsel, and Related claims, because Constitutional guarantee was not fulfilled, in a procedural system the S.C.T.Y.S. knew full well, does not provide an adequate and fair appeal of my claims, as they proved in Trevino, Thaler 133 S.Ct. 1911.

I was Appointed Appeal Counsel, but he never spoke to me, because he, as all the Appointed Lawyers do, only goes off the Record; They never obey the law to speak to the client, to learn what Appealable errors exist off the Record - which is exactly never ready during the Diabolical 30 day Window for Filing Motion for new trial - which Diabolically - is 100% mandatory to preserve error outside the Record - on Ineffective Assistance of Trial Counsel - of the victory of the procedural system, Lynch mob procedural system, wants to raise the errors on ineffective assistance of Trial Counsel, on Direct Appeal. The S.C.T.Y.S., in Trevino, Thaler, did nothing to help us.

I was forced to File 'my own' motion for new trial, trying to preserve said Ineffective Assistance of Trial Counsel claims, and related claims - so they could be raised on Appeal, but the Appeal court, they Dismissed my motion as, "Hybrid Representation", for the Lynch mob and when I complained further, they Dismissed my complaints, also, as "Hybrid Representation" - they told me that I have to get my lawyer to complain about himself, for me, to the court, like that would ever happen! The 30 day Window for Filing motion for new trial

Lapsed, and without all opportunity to raise my claims of ineffective Assistance of Trial Counsel, the merit of my Appeal, was lost, as happens to All Indigent Appellants in states like Texas, such that we are all denied a lawyer, Due process, & a fair Trial.

I admit that my Attorney was worse than most - Because my Attorney didn't even file a "Token Empty motion for new trial" - Because the Appeal courts are filled up, to the brim of their Lynch mob cup - with literally Empty motions for new trial (Because the records never ready in time, and because Lawyers do not speak to the client in time to satisfy the 30 day window) but it is all the same, in the end - because not filing a motion for new trial, is just as good as filing an Empty motion; You see, he never spoke to me, so all he could have done was to file an Empty motion, that is literally worthless.

Without speaking to the client, they have no way to learn anything to put in the motion, and the 30 day window to file it is over long before the Record is transcribed, and delivered and for ineffective Assistance of Trial Counsel claims, and related claims, like Lost Right to Due process errors outside the Record, and like Lost Right to effective counsel, outside the Record, are either not heard because they were never preserved properly (that tricks the Appellant that thought he would get meaningful Review) Because of ineffective counsel, and because of the very Reversible procedural system for Addressing said claims, or not heard because they simply never even got put in the Appeal, because of ineffective Assistance of Appeal Counsel (Which Federal Rule 2754 i 9 addresses) and because of the intentionally (see Ex parte Garcia 486 S.W. 565 Dissent) 'Faulty' procedural system for Addressing said claims of ineffective Assistance of trial Counsel,

What happens to me, happens to everybody and the SCOTUS knows it, more than they admit, even in Trevino v. Thaler 133 S.Ct. 1911 where they shame Texas; Itell - even Texas agrees and Affirms the Lynch mob system of Texas, in Desert, in Ex parte Garcia 486 S.W. 565. But the SCOTUS Failed, on purpose because they are too smart to have missed it, to Honor legal precedent in con Flict with Trevino v. Thaler (From, including but not limited to Smith v. Luey 469 U.S. 383, & Article VI of the U.S. Constitution) that would fulfill Constitutional guarantees left behind in Trevino v. Thaler, and the Judge out of office - and my claims of the American People's claims are

we not raised on Direct Appeal, and the Great American Lynch mob wins - against me, and the American People, all the time, I Filed petition for Discretionary Review, a horrible, very horrible experience that I have ~~PTSD~~ PTSD issues over, and the Great American Lynch mob won here again, as well.

I Filed writ of Habeas in the Texas Court of Criminal Appeals (who 100% killed my dream of being a Lawyer FOREVER) with a memorandum on other grounds, (later I Filed a 2nd writ of Habeas corpus and it too was denied) It was a masterpiece even without Trevino v. Thaler, Ex parte Garcia that were not available because Texas only allows prisoners to get cases up to year 2012, unless we are literally 'psychic', and can ask Forcuz, that we could never know about without updated books, and Texas being a leader in the Great American Lynch mob, for their God SATAN - with held the exculpatory evidence from me. (I got it and gave it to the 5th Cir. Court finally but they refused "to consider" it!) They refused me access to the trial transcript that contained the exculpatory evidence I needed to prove my innocence, and to substantiate my claims of constitutional violation - and I was denied Relief again, and the Great American Lynch mob won again, so to condemn the soul of America, I hate myself for filing a second writ in Texas. I knew they would not give me justice, and I let them set off on hurting me again, and this only functioned to hurt them more, and I feel guilty.

I Appealed, Everything, at least to Reference to my claims in my state Habeas petitions, to the U.S. District Court, and - indisputably they, having a choice, "chose" to use methods to deny me justice - when methods like Appointed counsel, and granting Habeas Relief were available to them, based on the fact that I was denied Counsel in the appellate process, alone - see Ev. HS v. Lucas 469 U.S. 388, The Judges, and the lawyers know the procedural system for addressing, "All" claims outside the Record, including but not limited to Ineffective Assistance of Trial Counsel, and Due process claims, of course, and they Failed to Adapt But again, Texas people only look Hate, and always have - since they elected president Canan on the saying "Save a man, kill an Indian" and they scored another win for the Great American Lynch mob.

Then I Filed for certificate of Appealability, in the United

States Court of Appeals, Fifth Circuit. I raised every claim that I had raised in previous petitions, from previous courts, and I used all the requisite legal precedent, by miracle... but... this time, I finally got the Escalatory Evidence that the Great American 'Lynch Mob' withheld from me, by the Trial Court Judge, the Appeal Lawyer, the Appeal Court, the US District Court, & Judge - the 5th Circuit Court didn't care, but I got it, After a Family member Helped me, Finally, and I gave it to the Court in exhibits to prove my Innocence, and to substantiate my claims perfectly, but Judges being Judges, and After over a year - During which I was Assaulted (Beaten) in prison by staff, who beat me, Relentlessly, with my Hands behind my Back, while on the floor on my stomach that ripped open to let my guts come out of the abdominal wall, the Judge (My teeth are still chipped - and my left elbow is still ruined, & left hand still Broken at the pinky knuckle & ruined at the index finger knuckle) the Judge Denied Relief saying that they lack Jurisdiction, to consider my Substantial, and Substantiated claims of Ineffective Assistance of Trial Counsel, & related claims Based on Black v. Davis 902 F3d 541, 545 5th Cir 2018 cert. denied, 140 S. Ct. 859 (2020), and then, After I filed for Rehearing, they Denied Relief to say the Supreme Court of the United States is worthless, as they purposely ignored Schulp v. Delo 513 U.S. 298, 115 S. Ct. 851, that have then Jurisdiction!

To be clear, the 5th Circuit Court chose "to pick" Black v. Davis, instead to, "Take away" Jurisdiction when I gave them Schulp v. Delo 513 U.S. 298, 115 S. Ct. 851, that was available for the Justices to, "pick"; "To keep" Jurisdiction, to hear my Substantial, and newly Substantiated claims of Constitutional violation in order to fulfill guaranteed Right to Counsel, Due Process, and a Fair Trial → its in their order/mandate of Sept 08 2020 - that the Great American Lynch Mob used to beat Justice.

Now I am in your Court, and, as you said on paper, you Literally do not care if I can prove I was Denied Justice, and that, contrary to your oath of office, you will, Guarantee, exactly, "NOT De Facto" the U.S. Constitution, unless my claims, in your Sovereign King opinion, are of 'National Importance', as if putting one innocent man is not of National Importance when he has right, "Leave behind" ⇒ "The people of America that left Lazarus behind, on U.S. soil, ... But Yes... the issues I raise

are of the kind of National Importance the SCOTUS should normally care about, on an Honorable Day, when they were not Afraid of the Disgrace it will bring them, to be Honorable.

A multitude of the American people suffer from the same Injustice I suffer, and if you will just Answer my Questions, with Honor → as in not the Dred Scott Decision (kind of Honor, but with Honor to Love - the precedent will be set to supplant Injustice, with Actual Justice, and Help to end the Great American Lynch mob that is killing us, The United States of America, from the inside out.

please Grant my writ of Habeas Corpus as you did in Ex parte Luce, 469 U.S. 382, or Reverse, Force a new Trial - I want out of prison, and, I want Swift Justice, I want a speedy, and fair Trial.

- and for the Record, a guarantee is a guarantee to everybody, but the Great American Lynch mob, who loves Injustice - God told me that, and he said that I deserve Justice in your Court even if it was not, as it is - of National Importance, because you were not allowed to lie in your Oath of office - He said you better change your Oath - or your action because you bring Disgrace to truth in the Name of Honor" - your self-exalted title, is a lie, and this angers God - who has not missed even the least of your crimes against Justice, with your Time, Here on Earth. Be ~~it~~.

REASONS FOR GRANTING THE PETITION

The Reasons For Granting my petition are simple, and worth (Federal legal cases are in conflict, and the "ultimate objective" described in Evitts v. Lucas 469 U.S. 387, that the guilty be convicted, and the innocent go free, is being literally "Dis Honored," by Judges, to make the innocent go to prison in states like Texas, and All Across America) - but Not easy to Accept, because Humans Fear admitting they were wrong... but I speak For God, in this, and thus Have to say the part that will Not allow, some, to - Save Face... so here it is, the system for addressing ineffective Assistance of Trial Counsel, and Related claims in Texas, and similar states - in function, as intended, because smart people made it, and saw it effect, actually works to do the opposite, and this exactly Not address the American people's ineffective Assistance of Trial Counsel. And I am; Ben X, I am setting a trap to Disgrace the S.C.O.T.U.S.) and Related clowns...

In Fact, it serves - "Literally" - to cover up - straight making Day Lynch mob style - ineffective Assistance of trial counsel, et cetera, to very literally, knowingly, and intentionally, deny Americans their very mutable - immutable - and Fundamental Fake guaranteed Right to a Fair Trial, fair Appeal, on U.S. Soil - and our U.S. Constitution will not, unless forced against its will, to leave this, En justice.

Yes, the S.C.O.T.U.S. has "Discretion", and they can use it to harm America, to bring Injustice to add insult to injury, and they can thus "throw out" my writ of certiorari, and all peoples writs of certiorari Deserving of Justice - to cover up the abuse, and to Save Face Before mankind - or they can use their "Discretion" to Accept my case, and still not do right by our U.S. Constitution - like they did when they said that Humans with Black skin can not be citizens of America, in order to make Pres Scott stay a slave, and like when they said, For SATAN, the Father of Lies, that "Separate is Equal" - or - like when they passed (on the 200th Anniversary of our Independence from sovereign kingship) the case of Emble v. Packman 1976, in defiance of our "Declaration of July 4, 1776", that says, with perfect clarity, that things "sovereign"

are Literally, "unAmerican", so that the American people would not
Surrender in civil court to end Injustice like, "Separate But Equal"
which was, as God says, a Deliberate Lie, Done to promote, and to
perpetrate, Hate on U.S. soil.

- So yes, The S.C.O.T.U.S. has "Discretion", and power under
The Law, Embler v. Pachman 1976 - to make "Deliberately" unjust
Decisions, and sadly, to still be able to escape civil liability
(although unconstitutional) because, like an "unAmerican -
Sovereign King" They are now made, exactly, and Literally, "above
the Law" with protection, "the people" (peasants) do not get, because
they are not Equal, and can't Deliberately harm others, and be
immune to suit (the peasants' deterrent to Evil) like Evil Judges can,
But $\Rightarrow$ If they are "Honorable" - so they force people to call them
with coercion, & with fear of Injustice - they will see this as
an opportunity to "Earn" the title they have themselves to Honor
The Dred Scott Decision, and so many others like it $\rightarrow$ By ending
In Justice $\rightarrow$ by turning wrongs into rights.

The S.C.O.T.U.S., because they are smart, Blessed even,
"knew" when they ruled in Mervin v. Thaler 133 S. Ct. 1911 C and
Ignored Black v. Davis 902 F3d 541, 545, cert Rev'd, 140 S.
Ct. 859 (2020)) that they, the S.C.O.T.U.S., intentionally did not
provide remedy, justice, at all. Sure, in the former case, they
let Americans raise for the first time, an effective assistance
of trial counsel claims (ignoring other claims outside the record!)
in U.S. District Court, to By-pass Texas -- but the S.C.O.T.U.S. "knew",
Beyond Doubt, that this Does not, at all, help; Because the people
do not, at all, suddenly, By "MAGIC" become schooled in Law,
and Ability - with this Ruling, and the people's new ability to file
in Federal court.

Clearly, the people still need a lawyer, because the S.C.O.T.U.S.
said, in Evitts v. Lucas 469 U.S. 337 (when protecting right to effective
assistance of counsel on direct appeal with constitutional
guarantee that the Equal protection clause rights of others for Evil)
that, "The obvious truth is that lawyers are necessities not
luxuries in our adversarial judicial system", and even "literally
stupid" people can realize that, if Americans had need, & Right,
to a lawyer to prepare and present their ineffective assistance of
trial counsel claims on direct appeal - then they have the very
same need, that make a lawyer a necessity on direct appeal to
present their ineffective trial counsel claims, when encouraged

to Bypass Texas to raise their claims in U.S. District Court, because the tasks are equally difficult, adversarial, and necessary to fulfill the people's fundamental right to a fair trial on United States soil.

This is, "The opportunity" to provide precedent that will allow Judges to Reverse, or to Grant Habeas Relief as They Did in Evitts v. Lucas, 469 U.S. 387, because minimum safeguards were not met, to Afford a Fair Appellate process, because Counsel was Denied, which cannot be tolerated because of the fact that Counsel is necessary to protect Due process, and the people's fundamental right to a fair trial is on the line; and this, Reverse, or Granting of Habeas Relief, will force Texas, and similar states, to change their system for Addressing Ineffective Assistance of Trial Counsel claim, & related claims, to help end the great American Lynching Mob, and because the "Soul of America" is on the line - and needs this - Real Bad.

please, listen to me, another massive issue is going on here that must be recognized, and it affects exactly every single person in this country! Yes, a time of adjustment comes with change for good, but it is & should be recognized as both a Blessed, and wonderful time, because it is the evolution of Love, Love in the land of the free.

The mind of the SCOTUS, who has famously "Lied" to say that under our U.S. Constitution, their hands are "Tied", and poor Dred Scott (an American martyr) has to remain a slave, and who has so famously lied to say, in Plessy v. Ferguson, that, "separate is Equal" is Ken literally (Having been corrupted like Judas was corrupted) literally "Blessed"; ~~and~~ and I know this, because I, although exactly not special, have been "Blessed", but in an exactly opposite fashion... and so... I can't not see the workings of their, The SCOTUS, Dark Art.

The SCOTUS has truly incredible "Ability", and they have made and allowed myriad laws, and have made, and allowed myriad procedural Rules, that - by and through their Dark Art, function to exactly limit the ends of "Actual" Justice.

Whether it be to make sure that "Free states" of old, do not get "suddenly filled up" with escaped slaves seeking freedom, or so that the desks of judges today do not suddenly get filled up with cases of innocent people seeking freedom $\Rightarrow$ the SCOTUS, uses their Blessed Ability, in their Dark Art, to Tweak words, and to blur perspective, to exactly limit, and thwart Actual Justice $\Rightarrow$ For America, the Richman that hates Lazarus Luke 6:19-31.

The SCOTUS, will never "outright" perpetrate evil, but it is there that lies the heart of their evil, their Dark Art,... of deception,... like a wolf in sheep's clothing - they will keep a false veil of virtue before the people to see, the SCOTUS, literally, blind, as they are, can both ignore, and rule for injustice, and make it look like they had no choice - in order to maintain "lifestyle", to keep various "costs" down - to not flood Free states, or judges desks, ... etcetera... But,, The Real American's mind, like the mind of the true patriot, and our Founding Father, Benjamin Franklin, a man who literally believed in prayer, and faith - said - For true love, that it is better to let (100) guilty people go free, than it is to let (1) innocent man go to prison; and if we are to save the soul of America, we must face the sins of our past, right the wrongs in Law, and in procedural Rule, that limit Justice!

We must do exactly what is actually necessary to actually guarantee, constitutional guarantee - that would have been guaranteed, but for a judge, working for his 3rd side of Advocacy, in a legal case in the United States of America.

Let ALL with hearts see, and hear, to know $\Rightarrow$ that nothing is hidden to the, "eye of providence" - as man has called it, here - and its Hand will not remain, should the great American Lynch mob, with their Lynch mob for Justice Justice continue - please, please see and hear this. please, moving people - Because this affects, sure as hell, exactly all on our planet... But love can win... and to effectuate meaningful change for good to get better, while the bad get worse, we just have to act when presented with opportunity - and in that - Chairman this Court (13) Questions that if Answered for the ends of Justice, will function to keep both the eye, and Hand of providence on this land of ours - so please grant me Habeas Relief - to save the multitude that will be injured if for denied Relief, and do it knowing that love is evolving for good, Ben A.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,


Benjamin R. Stewart *AS*

Date: 11-29-20

IN THE
Supreme COURT OF THE UNITED STATES

Benjamin R. Stewart - petitioner

v s.

Bobby Lumpkin - Respondent

Motion For Leave To proceed To Final Review
Despite potential procedural Rule Barring Judges Review
Based on SCPTUS, Legal precedent
and
Extraordinary circumstances

In Washington v. Texas 388 US at 2487 S. Ct. 1920
The SCOTUS Ruled that, or said that, "a Fundamental element
of Due process of Law" is superior to a procedural Rule; and not
only have I been denied, in issues of National Importance, Both
Fundamental Right to a lawyer, and Fundamental right to Due
Process - such that I lost, also, my Fundamental Right to a
Speedy, and Fair, Trial - and my issues, the issues in my writ
of certiorari, do absolutely affect the whole of our nation -
they are issues of National Importance concerning "Fundamental
elements of Due process of Law", and a serious miscarriage
of justice will result hurting, "the American People" if my (13)
Questions are not affirmed.

Moreover, I am a prisoner stuck in 24 Hour Maximum
Security Lock Down - my legal work, most of it was stolen
in my last "move" by the WDC, and I can not get you copies,
or dates, or anything more than I sent in... we can't even get a
light bulb in our cells to see, here, none of us get a light
bulb, and the Law Librarian will not respond to our requests
for help, even if he did, he wouldn't help get me dates & copies
of my Appendix section! we have no access to the Federal
Rules, or Rules of the Court, and on top of that. While I
write, Relentlessly - To people for help, I get no help, and
I am totally alone, and I have absolutely zero choice but

to send to you what I did - as is - Out of the very Best
I could; you all even made me "cry" - Fin, Fin so Desperate, and
N'ing, so Hard. The FDC, my prison, They say I am Below
Average in Intelligence, according to their tests, but I gave
you all I got - With what is available to me, mentally and
physically. I can't, I never will be able to get you Dates, or
Copies - et cetera, but no Doubt the American people's Funda-
mental Constitutional Rights are being For saken For what
is by no means Justice - So, Based on the Fore going,
and on the following unsworn Declaration, I ask for
Leave to proceed To Final Review by the Court, and
my Questions, without being Deied on, or For a
procedural Error; please Appoint Counsel to Help if
you see my Questions Have merit.

unsworn Declaration

my Name is Benjamin R. Stewart X, and I swear, and
Declare, under penalty of perjury, that all of the Foregoing
is true and correct - my present identifying no. is #1470445
my Date of Birth is 08-19-1971, and I currently Reside
at Wynne unit 810 Fm 2821 Huntsville Tx. 77349,
and I executed this on the 29th Day of November 2020

Benjamin R. Stewart X

Certificate of service

I served Respondant, Bobby Lumpkin, through the Attorney
General Ken Paxton, and through Assistant Attorney General
Sarah Harp, by mailing copies of this to the office of
Attorney General 6161 Savoy St. Suite 320, Houston
Texas, 77036 what I mailed this to the S.C.J.T.S.,
on the 29th Day of November, 2020

Benjamin R. Stewart X