

No. 20-6760 ORIGINAL

Supreme Court, U.S.  
FILED

DEC 09 2020

OFFICE OF THE CLERK

IN THE  
SUPREME COURT OF THE UNITED STATES

Adam Lee Thomas — 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

Adam Lee Thomas #2254371  
(Your Name)

12071 F.M. 3522  
(Address)

Abilene, Texas 79601  
(City, State, Zip Code)

N/A  
(Phone Number)

### **QUESTION(S) PRESENTED**

Whether the Trial Court erroneously admitted evidence of extraneous offenses or acts of misconduct allegedly committed by Petitioner during the guilt/innocence phase of trial in contravention of Texas Rules of Evidence 404(b).

## **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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### 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☐ is unpublished.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☐ is unpublished.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 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☒ is unpublished.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 Ninth Court of Appeals of Texas 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☒ is unpublished.

## 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 16<sup>th</sup> Sept 2020.  
A copy of that decision appears at Appendix A.

☐ 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**

N/A



On November 16, 2017      **STATEMENT OF THE CASE**

Petitioner was indicted for Injury to a child. On February 15, 2019, a Jury found Petitioner guilty as charged in the indictments. On February 19, 2019, Life in prison was assessed as punishment.

Petitioner filed a timely Notice of Appeal. Petitioner filed his brief on August 30, 2019, and the State filed their reply Brief on January 2, 2020.

Petitioner's conviction was affirmed by the Court of Appeals for the Ninth District on July 15, 2020.

Petitioner filed a Petition For Discretionary Review which was refused on 16<sup>th</sup> September 2020.

Petitioner now seeks a writ of Certiorari.

### REASONS FOR GRANTING THE PETITION

The Trial Court in this matter heard evidence provided by the State in form of a "bench brief" and would show that the extraneous offenses, which had occurred some six months prior to the alleged offenses for which Petitioner was found guilty, were admissible against the Petitioner in its case in chief.

Prosecutor stated that the evidence was extraneous evidence was to use the cigarette lighter intentionally on two children in March, 2017. That the type of wounds inflicted on the children in the extraneous matter were consistent and similar in nature to those found on the Complainant in the case at bar.

The State further argued that the extraneous evidence probative value clearly outweighed the prejudicial value in a balancing test as required by the Texas Rules of Evidence 403 et. seq.

Counsel for Petitioner argued that the extraneous offenses were not admissible but were merely used to inflame and prejudice the Petitioner before the jury. The argument was made that the probative force value was clearly outweighed by the prejudicial value of the admission of the supposed similar burn marks on the children in the extraneous matter than those found on the Complainants. Trial Counsel further argued that the Petitioner was never found to be alone with the children at the time of the alleged injuries sustained by the Complainants and that the sole reason for the use of the extraneous matters, which were highly inflammatory and prejudicial in this type of case, was to show the Petitioner's character for committing crimes against children.

The Trial Court erroneously admitted the extraneous matters into evidence presented to the Jury in the State's case-in-chief over trial counsel's objection.

This Court should grant Certiorari to correct this error and offer guidance to the lower court as to the correct standard of review as to the admissibility of extraneous offenses.

## CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Adam Thomas

Date: 9<sup>th</sup> December 2020