

No. 20-7432 ORIGINAL

IN THE

FILED
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OFFICE OF THE CLERK
SUPREME COURT, U.S.

SUPREME COURT OF THE UNITED STATES

Kevin Leon Lucien — PETITIONER
(Your Name)

vs.

Tenth Court of Appeals — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

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

PETITION FOR WRIT OF CERTIORARI

Kevin Leon Lucien
(Your Name)

12071 FM 3522
(Address)

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

(Phone Number)

QUESTION(S) PRESENTED

1. Whether a state's own articles of law can supercede federal law to further prosecute a defendant in regards to admissible and inadmissible evidence that violates the 14th Amendment which guarantees Due Process throughout court proceedings?

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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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 is unpublished.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 is unpublished.

[X] 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 is unpublished.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 Court of Criminal Appeals of Texas court 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 is unpublished.

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 9/2/2020. 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

6th Amendment

- In all criminal prosecutions, the accused shall enjoy the right of a speedy trial and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and be informed of the nature and cause of the accusation; to be confronted by the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

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 privileges or immunities of citizens of the United States; nor shall any State 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.

Texas Penal Code 22.04 Section (a)(1) (Injury to a Child)

- the range of imprisonment for an offense under this section is 5-99 years to Life with an optional fine of \$10,000.

STATEMENT OF THE CASE

On May 19, 2016, Petitioner was indicted for the offense of i. Injury of a Child-Serious Bodily Injury. On July 17, 2018, Petitioner pled not guilty to the jury. Next day, the jury found Petitioner guilty of injury of a childas charged in the indictment. The jury found that Petitioner used a deadly weapon during commission of the offense..On July 18, 2018, the jury heard further evidence on the issue of punishment. After additional evidence was heard, the trial court sentenced Petitioner to life in the TDCJ and a \$10,000 fine. Petitoner appealed to the Tenth Court of Appeals arguing that trial counsel rendered ineffective assistance of counsel guaranteed by the Sixth Amendment. The Tenth Court of Appeals overruled the claim and affirmed Petitoner's conviction on March 11, 2020. Petitioner filed a Pro Se Petition for discretionary Review with the Court of Criminal Appeals in Texas on September 2, 2020. On September 23, 2020, the Court of Criminal Appeals in Texas refused Petitioner's PDR. On November 11, 2020, the Court of Criminal Appeals denied Petitioner's pro se Motion for Rehearing. Petitioner now files this writ of certiorari.

REASONS FOR GRANTING THE PETITION

This case is of National Importance due to the fact that the State of Texas has imposed its own laws that controvert established Federal law in the form of rules within its code of criminal procedure. The 14th Amendment to the Constitution clearly states that due process be granted in all criminal proceedings, and that no one will be denied the equal protection of the law. In addition, the 6th Amendment guarantees that an accused individual will be provided with fair and competent assistance of counsel throughout court proceedings. That is the law of the land.

In this case, the State of Texas used its own law to deny Petitioner's constitutionally protected right to due process by inserting its own articles of law in the form of Tex. Code of Criminal Procedure 38.37. which effectively allows the State to present evidence deemed inadmissible to strengthen its argument regardless of the defense objecting prior in its motion to limine. This act is unconstitutional on its face value because it circumvents already established strategies and distinguished methods of entering evidence.

In Texas courtrooms there is no available counter against T.C.C.P. 38.37 regardless of federal statutes. Due process can not be used in this case, and the equal protection clause is rendered useless. Most instances within the courtroom end with the trial judge allowing inadmissible evidence onto the record, and trial counsel not objecting to preserve the error for appeal. This article is a double edged sword that can not be shielded against.

It is up to this court to look into this egregious act that allows a citizen who is protected by law to be oppressed in Texas courts.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Kevin Lurie

Date: February 5 2021