

20-7590

No. \_\_\_\_\_

Supreme Court, U.S.  
FILED

MAR 23 2021

IN THE

SUPREME COURT OF THE UNITED STATES OF THE CLERK

Billy E Parker — PETITIONER  
(Your Name)

vs.

State of Oklahoma — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

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

PETITION FOR WRIT OF CERTIORARI

Billy E Parker  
(Your Name)

1605 E. Main  
(Address)

SAYRE, OKIA - 73662  
(City, State, Zip Code)

\_\_\_\_\_  
(Phone Number)

## QUESTION(S) PRESENTED

1. IS AN PRO-SE LITIGANT ENTITLED TO RECEIVE DUE-PROCESS AND EQUAL PROTECTION IN COURT PROCEEDINGS
2. DOES KEEPING AN INNOCENT PERSON IN PRISON VIOLATE THE EIGHTH AMENDMENT
3. CAN A COURT PLACE A PROCEDURAL BAR ON A ACTUAL & FACTUAL INNOCENCE CLAIM
4. IS A STATE COURT BOUND BY AND MUST FOLLOW LEGISLATED LAW AND FEDERAL LAW
5. CAN A STATE COURT KEEP A INNOCENT PERSON FROM CONCLUSIVELY PROVING THEIR INNOCENCE BY DENING THAT PERSON DUE-PROCESS
6. DOES A WRONGFULLY CONVICTED PERSON HAVE A RIGHT TO CONCLUSIVELY PROVE THEIR ACTUAL INNOCENCE THROUGH DNA FORENSIC TESTING
7. DO OKLAHOMA COURTS HAVE TO AND ARE REQUIRED TO FOLLOW ANY LAWS WHATSOEVER
8. DOES AN ACTUAL INNOCENCE CLAIM WARRANT AN INVESTIGATION INTO THAT PERSON'S ACTUAL INNOCENCE
9. DOES KEEPING AN ACTUALLY INNOCENT PERSON IN PRISON SERVE ANY PUBLIC INTEREST

## 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

SKINNER V. SWITZER

562 U.S. 521, 131 S.Ct. 1289, 129 L.Ed. 2d 233 (2011)

SLAUGHTER V. STATE, 2005 OKCR6, 61108 P.3d 1052/1054

SALINGER V. LOISEL 265 U.S. 241, 230, 44 S.Ct. 519, 68 L.Ed. 989 (1924)

FAY V. NOIA 372 U.S. 391, 83 S.Ct. 822, 9 L.Ed. 2d (1963)

TRIESTMAN 124 F.3d 327-80

HERRERA V. COLLINS 506 U.S. 390, 432 N.2, 113 S.Ct. 1853 122 L.Ed. 203 (1993)

ROBINSON V. CALIFORNIA 70 U.S. 660, 667, 82 S.Ct. 1417 8 L.Ed. 2d 758 (1962)

PROST V. ANDERSON 436 F.3d 528 (10th Cir 2011)

DOWSLEY V. US 523 U.S. 614, 623, 118 S.Ct. 1604, 140 L.Ed. 828 (1998)

SAWYER V. WHITLEY 505 U.S. 333 12 S.Ct. 2514, 120 L.Ed. 296 (1991)

MURRAY V. CARRIER 477 U.S. 428, 06 S.Ct. 2039, 91 L.Ed. 392 (1986)

IN RE DORSAINVILLE 119 F.3d 245-248 10th Cir (1997)

WOFFORD V. SLOTT 177 F.3d 1236-1243 -44 11th Cir (1999)

IN RE DAVIS U.S. 135 S.Ct. 1, 127 L.Ed. 114 (2009)

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**TABLE OF AUTHORITIES CITED**

**CASES**

Smith v. Newirth PC 2014-0543, 337 p. 3d 768 v-5-2014 PAGE NUMBER  
House v. Bell -547 U.S. 126 S. CT 2064 (2006)  
Schlap v. Delo -513 U.S. 298, 115 S. CT. 851 (1995)

**STATUTES AND RULES**

22.0.5 § 1373, 4(A)  
22.0.5.1373

**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 OK/A COUNTY TRIAL COURT 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 2-24-2021.  
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

Fourteenth Amendment ~~GUARANTEEING~~ GUARANTEEING Due-process  
EQUAL PROTECTION OF THE LAW

Eighth Amendment to imprison a person who is  
ACTUALLY INNOCENT constitutes cruel & unusual

Suspension Clause

FUNDAMENTAL FAIRNESS

MISCARRIAGE OF JUSTICE

TRAVESTY

5th Amendment - Right NOT to be deprived  
OF LIFE, LIBERTY OR PROPERTY WITHOUT  
DUE-PROCESS OF LAW (FAIR PROCEDURES)



STATEMENT OF THE CASE

ON JULY 6, 2015 PETITIONER FILED IN OK COUNTY COURT PARKER FILED AN APPLICATION FOR FORENSIC DNA TESTING PURSUANT TO 22,051373, THE NEWLY ENACTED POST-CONVICTION DNA LAW SEEKING TO CONCLUSIVELY HIS ACTUAL INNOCENCE. ON JULY 16 OK COUNTY COURT DENIED PARKER'S APPLICATION WITHOUT HOLDING THE POST-CONVICTION DNA ACTS MANDATED HEARING TO DETERMINE IF HIS DNA REQUEST COULD BE DENIED THEREBY CIRCUMVENTING THE OKLA LAW. DNA ACT ALSO VIOLATING THE U.S. CONSTITUTION THE FOURTEENTH AMENDMENT ENTITLES A PRO-SE LITIGANT DUE-PROCESS & EQUAL PROTECTION OF THE LAW PARKER APPEALED TO THE OCCA. SUBSEQUENTLY THE OCCA APPEAL'S COURT AFFIRMED THE DISTRICT COURT'S DENIAL. THEREBY AGAIN DENYING PARKER DUE-PROCESS & CIRCUMVENTING THE POST-CONVICTION ACT'S STATUTES 1373.4(A) WHEREIN IT ISSUES A MANDATE AS REQUIRED AFTER THE MOTION REQUESTING FORENSIC DNA TESTING AND SUBSEQUENT RESPONSE HAVE BEEN FILED THE SENTENCING COURT SHALL HOLD A HEARING TO DETERMINE WHETHER DNA FORENSIC TESTING WILL BE ORDERED.

②  
The hearing is NOT discretionary it's mandated  
by OKLA LAW. AGAIN ON NOVEMBER 6, 2018 AND  
MARCH 15, 2019 PARKER FILED A SECOND APPLICATION  
REQUESTING FORENSIC DNA TESTING SEEKING TO  
CONCLUSIVELY PROVE HIS ACTUAL INNOCENCE  
AGAIN ON JULY 9, 2019 THE OK COUNTY COURT DENIED  
PARKER'S APPLICATION AGAIN WITHOUT HOLDING THE  
MANDATED HEARING THEREBY CIRCUMVENTING THE  
OKLA LAW POST-CONVICTION DNA ACT AND DENYING  
A PRO-SE LITIGANT DUE-PROCESS AND NOT AFFORDING  
PARKER HIS OPPORTUNITY TO INTRODUCE EVIDENCE  
IN FAVOR OF DNA TESTING TO CONCLUSIVELY PROVE  
HIS INNOCENCE AND HE HAS BEEN DENIED FUNDAMENTAL  
FAIRNESS AND DUE-PROCESS AND EQUAL PROTECTION  
OF THE LAW AT TRIAL AND THEN ON DIRECT APPEAL  
AND ON COLLATERAL PROCEEDINGS. PETITIONER  
ARGUES THAT EVEN IN SKINNER V. SWITZER, 562  
U.S. 521, 131 S. CT. 1289, 129 L. ED 2D 233 (2011)  
THE SUPREME COURT FOUND SKINNER WAS ENTITLED  
TO DNA TESTING REGARDLESS OF THE EVIDENCE.  
SINCE HIS ARREST PARKER CONTINUED TO  
MAINTAIN HIS ACTUAL INNOCENCE THROUGHOUT  
THESE PROCEEDINGS AS EVIDENCED BY HIS  
REPEATED FILINGS AND HAS DILIGENTLY  
PURSUED HIS INTERESTS. FURTHER PETITIONER  
ARGUES THAT OK APPEALS COURT HAS HELD THAT  
AN ACTUAL INNOCENCE CLAIM IS NOT SUBJECT  
TO PROCEDURAL BARS AND MAY BE RAISED AT  
ANY STAGE OF THE APPELLATE PROCESS, SLAUGHTER  
V. STATE (2005) OK CR 6, 6, 108 P. 3D 1052, 1054

(3)

The OKLA legislature has specifically enacted the post-conviction DNA ACT to protect the constitutional values and what the framers had intended. OCCA has recognized that innocence claims are the post-conviction procedure act's foundation. petitioner has previously made stringent showing required by actual innocence exception to procedural bar rule that had the jury heard all the conflicting testimony it was more likely than not that no reasonable juror viewing the record as a whole would lack reasonable doubt. where petitioner called into question blood DNA evidence which was central forensic proof connecting him to murder and put forward substantial evidence pointing to a different suspect. The OK appeals court's denial of parker's writ of mandamus is clearly erroneous and violates the fifth amendment which guarantees a pro-se litigant due-process & equal protection. The OCCA abused its discretion by any unreasonable or arbitrary action taken without proper consideration of the facts and law pertaining to the matter at issue by making a clearly erroneous conclusion and judgement one that is clearly against the logic and effect of the facts presented. petitioner was arrested 6 years after the murder occurred because of a statement given by the states primary and star witness who just completely vanished at the time of petitioners jury trial because the state allowed 2 years to pass after the preliminary hearing before they even tried again to contact the witness to make her available for trial so she was allowed to be absent in order to not stand before the trier of fact for the consideration of belief.

(4)

IN her trial testimony see APPENDIX I TRANSCRIPTS OF FORENSIC CHEMIST ELAINE TAYLOR. SHE STATES ON PAGE 805 THAT SHE EXTRACTED BLOOD FROM THE CAR SEAT WHICH CONTAINED A MIXTURE OF MORE THAN ONE PERSON. SHE FURTHER STATES ON PAGE 806 THAT SHE EXCLUDED PARKER AS BEING A CONTRIBUTOR OF ANY OF THE DNA SAMPLES FROM THE CAR. PARKER MAINTAINS THAT FURTHER DNA TESTING WITH TODAY'S ADVANCEMENT IN TESTING TECHNIQUES WILL SPLIT THE SAMPLE ALLOWING THE FINDING OF A DNA PROFILE OF THE INDIVIDUAL WHOSE BLOOD IS MIXED WITH THE VICTIM'S IN WHAT THE PROSECUTION SURMISED IS IN FACT THE CRIME SCENE. THIS INDIVIDUAL IS IN FACT THE REAL KILLER OF THE VICTIM IN THE CASE AT BAR. ALSO THE INCLUSION OF THE DNA PROFILE INTO A CODIS DATA BANK WILL REVEAL THE PERSON RESPONSIBLE FOR THIS MURDER. BECAUSE THERE IS ONLY ONE WAY TWO PEOPLES CAN BECOME MIXED IN THE CRIME SCENE THEY HAD TO BE THERE TOGETHER ON THE SAME DAY AND TIME IN QUESTION BECAUSE THE RECORD AS A WHOLE IS DEVOID OF EVIDENCE OF GUILT AS TO PARKER'S GUILT OF HAVING COMMITTED THIS MURDER. PARKER HAS NO CRIMINAL HISTORY AND CERTAINLY HAS NEVER DISPLAYED ANY ACT'S OF VIOLENCE. TOWARD ANOTHER HUMAN BEING OR ANY LIVING THING. THE DNA IN PARKER'S HAS NEVER BEEN INDEPENDANTLY TESTED IT WASN'T EVEN TESTED BY THE STATES CRIME LAB IT WAS ONLY TESTED BY THE OCPD OKLA CITY POLICE LABORATORY. THERE WERE A LOT OF PEOPLE WHO GAVE STATEMENTS TO POLICE IN THIS CASE WHO SHOULD HAVE BEEN CALLED AS DEFENSE WITNESSES HOWEVER PARKER'S DEFENSE ATTORNEY'S CHOSE TO CALL NO WITNESS AT ALL.

IN SCHUP-513 U.S. AT 324, 115 S. CT 851 THE COURT HAS  
 RECOGNIZED A MISARRIAGE-OF JUSTICE EXCEPTION,  
 IN APPROPRIATE CASES, THE COURT HAS SAID THE  
 PRINCIPLES OF COMITY AND FINALITY THAT INFORM  
 THE CONCEPTS OF DUE DILIGENCE AND PREJUDICE MUST YIELD  
 TO THE IMPERATIVE OF CORRECTING A FUNDAMENTALLY  
 UNJUST INCARCERATION. CARRIER-495, 106 S. CT 2639  
 COMPUTERIZED DNA INTERPRETATION NOT  
 AVAILABLE AT THE TIME OF CONVICTION  
 CYBERGENETICS TRUE ALLELE COMPUTER ANALYSIS  
 OF COMPLEX DNA OVERCOMES THE HUMAN  
 LIMITATIONS OF INCONCLUSIVE METHODS.  
 TRUE ALLELE OBJECTIVELY EXAMINES LOW-LEVEL  
 DEGRADED TOUCH AND MIXED DNA SAMPLES  
 TO CALCULATE MATCH ASSOCIATION, THE SOFTWARE  
 COMPARES EVIDENCE AGAINST EVIDENCE AND  
 SEPERATES RELATIVES FROM MIXTURES. THIS  
 TECHNOLOGY WAS NOT AVAILABLE AT THE TIME  
 OF CONVICTION AND THESE TESTING TECHNIQUES  
 ARE MORE RELIABLE AND ACCURATE THAN THEY  
 WERE DURING CONVICTION AND THE PROBATIVE  
 RESULTS ARE MORE RELIABLE THUS UNDER  
 22 O.S. 2013 § 1373.2(B)(2) PETITIONER  
 HAS MET HIS BURDEN FOR DNA FORENSIC TESTING.  
 PARKER'S WRONGFUL CONVICTION AND DENIAL  
 OF DNA TESTING TO PROVE CONCLUSIVELY HIS  
 ACTUAL INNOCENCE PURSUANT TO THE OKLA  
 POST-CONVICTION DNA ACT FALLS WITHIN  
 THE NARROW CLASS OF CASES IMPLICATING  
 A FUNDAMENTAL MISARRIAGE OF JUSTICE.

## REASONS FOR GRANTING THE PETITION

The petition should be granted because petitioner is in fact actually innocent and he has been denied fundamental fairness and due process by the Oklahoma courts. Because DNA forensic testing will conclusively prove his innocence, petitioner was denied the preliminary hearing transcripts of the testimony of the forensic chemist Elaine Taylor. Because in those transcripts she testifies as to why it in fact took over 5 years to perform any DNA testing on the samples taken from petitioner's car, she said that she was never qualified to perform DNA testing until March 2004. But the state crime lab OSBI was in fact available in the beginning when the samples were taken from the car in January 2000, so if the DNA was ever important to the case why would the state wait over 5 years until Elaine Taylor was finally qualified to do testing. Petitioner wasn't arrested until 6 years after the victim was murdered, and even then the state's primary witness was allowed to mysteriously vanish at the time of petitioner's jury trial. Also Elaine Taylor testified on page 805 that she was able to extract a blood mixture from the car seat where the state submitted the victim was killed. She said the major component was the victim and she excluded petitioner as being a contributor to the mixed blood. Petitioner states that the person whose blood is mixed with the victim in the crime scene is in fact the actual person who killed the victim.

THIS COURT SHOULD GRANT THIS PETITION  
BECAUSE OF THE WIDESPREAD IMPORTANCE  
TO MANY INNOCENT INDIVIDUALS IN THE  
OKLAHOMA PRISON SYSTEM WHO ARE DENIED  
FUNDAMENTAL FAIRNESS AND DUE-PROCESS  
TIME AND TIME AGAIN AS THEY ATTEMPT TO  
PROVE THEIR ACTUAL INNOCENCE OF THE TRAVESAL  
COMMITTED AGAINST THEM WHEN OKLA WRONGLY  
CONVICTS INNOCENT PEOPLE DELIBERATELY IN ORDER  
TO FILL THEIR PRIVATE PRISON BEDS AND  
MAINTAIN 120% CAPACITY AS LONG AS POSSIBLE  
WE NEED THE ASSISTANCE OF THIS COURT  
IN THE INTEREST OF JUSTICE. 5<sup>th</sup> AMENDMENT  
VIOLATION  
(FAIR PROCEDURES)

**CONCLUSION**

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Billy E Parker

Date: MARCH, 17, 2021