

No. 20-7915

ORIGINAL

Supreme Court, U.S.  
FILED

DEC 05 2020

OFFICE OF THE CLERK

IN THE  
SUPREME COURT OF THE UNITED STATES

LARRY MARCEL VAUGHN — 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

LARRY MARCEL VAUGHN  
(Your Name)

TERRELL UNIT - TDCJ #2189836  
1300 FM 655

(Address)

ROSHARON, TX 77583  
(City, State, Zip Code)

(Phone Number)

## QUESTION(S) PRESENTED

WHETHER THE FAILURE OF APPOINTED COUNSEL TO ADVISE PETITIONER OF HIS RIGHT TO APPEAL THE TRIAL COURT'S ADJUDICATION OF HIS GUILT AND/OR THE ASSESSED PUNISHMENT IN THIS CASE DENIED PETITIONER HIS RIGHT TO APPEAL THAT IS PROVIDED TO ALL OTHER SIMILARLY SITUATED DEFENDANTS?

WHETHER THE FAILURE OF COUNSEL TO FILE NOTICE OF APPEAL AFTER HE TOLD PETITIONER HE WOULD DO SO WHEN PETITIONER TOLD COUNSEL HE WANTED TO APPEAL DENIED COUNSEL EFFECTIVE COUNSEL ON APPEAL.

## 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

LARRY MARCEL VAUGHN V. THE STATE OF TEXAS  
01-18-00657-CR (TEX. APP. - HOUSTON [1ST DIST.] 2018)

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### CASES

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GARZA V. IDAHO, NO. 17-1026 (Feb. 27, 2019), at 5

### STATUTES AND RULES

### 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☐ is unpublished.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☐ is unpublished.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 \_\_\_\_\_ 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 \_\_\_\_\_.

☐ 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 9/9/2020.  
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

### Fifth Amendment to the United States Constitution

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself; nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

### Sixth Amendment to the United States Constitution

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

### Fourteenth Amendment to the United States Constitution

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 laws.



## STATEMENT OF THE CASE

The records of this case reflect (1) that Petitioner was a known indigent to the court who appointed counsel to represent Petitioner at trial; (2) that the trial court on March 5, 2018, entered judgment adjudicating guilt and assessed a sentence of 30 years in the TDCJ; (3) that the trial court entered in the record its certification of Petitioner's right to appeal; (4) that trial counsel did not file notice of appeal; and (5) that the trial court did not appoint counsel to represent Petitioner on appeal.

Additionally, the record and corresponding filings establish that Petitioner did not waive his right to appeal or to file notice of appeal and that Petitioner did not waive his right to counsel to file notice of appeal or his right to counsel to represent Petitioner on appeal.

My name is Larry Marcel Vaughn. I am the Petitioner in this habeas application and I aver in support of my claim that I wanted to appeal my 30 year sentence and all matters that led to the sentence. Counsel told me he would file notice of appeal. I did not see my appointed attorney again, and on April 23, 2018, I was transferred to prison. I filed notice of appeal on July 19, 2018, but the First Court of Appeals held that the appeal was filed too late and that it did not have jurisdiction. Vaughn v. State, No. 01-18-00657-CR (Tex.App. -- Houston [1st Dist.] 2018).

I, Larry Marcel Vaughn, declare under penalty of perjury, that the statements above are true and correct and based on personal knowledge. Executed on February 5, 2021.

  
\_\_\_\_\_  
Larry Marcel Vaughn

## REASONS FOR GRANTING THE PETITION

The Texas Court of Criminal Appeals has decided an important question of federal law in a way that conflicts with relevant decisions of this Court in Garza v. Idaho, No. 17-1026 (Feb. 27, 2019), which held that a plea agreement does not waive a defendant's rights of appeal.

### CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Jany Vaughn

Date: December 5, 2020