

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

21-105

Supreme Court, U.S.

FILED

JUL 19 2021

OFFICE OF THE CLERK

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In The  
SUPREME COURT OF THE UNITED STATES

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**HARMON L. TAYLOR,**  
Plaintiff – Appellant – Petitioner,

v.

**CITY OF SHERMAN, TEXAS, et al.,**  
Respondents – Appellees – Respondents.

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ON PETITION FOR A WRIT OF CERTIORARI TO THE  
UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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ORIGINAL PETITION FOR A WRIT OF CERTIORARI  
WITH APPENDICES A AND B

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HARMON L. TAYLOR  
H.L. Taylor Farms  
225 Old Patterson Road  
Howe, Texas 75459  
socratic\_method@  
argentum-keceph-argurio.us

## **Questions Presented**

### **Threshold Service**

1. Was it abusive to deny that extension?

### **Malicious Prosecution**

#### **Compelled consent – “transportation”**

2. Is the TEX. TRANSP. CODE “unconstitutional,” as applied?

#### **Compelled commerce – Illegal seizure**

3. Did Respondents illegally seize Taylor’s van?

#### **Compelled consent – magistrate participation**

4. Was it abusive to dismiss?

### **Disqualification**

5. Is E.D.Tex. disqualified?

### **Transfer of Venue**

6. Was it abusive to deny transfer to N.D.Tex.?

### **Sanctions**

7. Is USCA5’s dismissal abusive?

## **Parties to USCA5 Proceeding**

USCA5 dismissed at the threshold. There was no proceeding in the normal sense.

There was also no Service at trial, which issue is preserved via the (*ex parte*) motion for extension.

### **Appellant**

HARMON L. TAYLOR  
pro se

### **Appellees**

- CITY OF SHERMAN,  
a municipal corporation
- BRANDON SHELBY,  
City Attorney, officially and individually
- CODY SHOOK,  
Police Officer, officially and individually
- FNU LNU, a/k/a ALEX AVILES,  
Assisting Officer, officially and individually
- ZACHARY FLORES,  
Chief of Police, officially
- BOB UTTER TOWING
- DRIVER

- DRIVER'S ASSISTANT
- MIDWAY STORAGE FACILITY
- T. SCOTT SMITH,  
Judge, Municipal Court, Sherman,  
officially and individually
- SUSAN MORRIS,  
Clerk, Municipal Court, Sherman,  
officially and individually
- JANIE FLETCHER,  
Clerk, Municipal Court, Sherman,  
officially and individually
- MUNICIPAL COURT ASST. PROSECUTOR  
(Nos. 1700002951, 52, 53, 54, and 4472),  
officially and individually
- GRAYSON COUNTY, TEXAS
- CAROL M. SIEBMAN,  
Judge, County Court at Law No. 2,  
Grayson County,  
officially and individually
- MICHAEL SISSNEY,  
Prosecutor, Muni. and CCL2,  
officially and individually

- MATT RALSTON,  
Asst. Prosecutor, CCL2,  
officially and individually
  - WHITNEY BREWSTER,  
Exec. Dir, TX DEPT OF MOTOR VEHICLES,  
officially and individually
- [STATE OF TEXAS; *see* the Companion case]
- RON CLARK,  
Chief Judge (at the time), E.D.Tex.,  
officially and individually
  - AMOS L. MAZZANT, III  
assigned § 451 judge, E.D.Tex.,  
officially and individually
  - CHRISTINE A. NOWAK,  
designated but **unconsented-to** magistrate, i.e.,  
arbiter,  
officially and individually
  - CARL E. STEWART,  
Chief Justice (at the time), USCA5,  
officially and individually

## **Directly Related Proceedings**

- Trial

E.D.Tex., No. 4:20-CV-114

TAYLOR v. CITY OF SHERMAN  
BRANDON SHELBY  
CODY SHOOK  
FNU LNU, a/k/a ALEX AVILES  
ZACHARY FLORES  
BOB UTTER TOWING  
DRIVER  
DRIVER'S ASSISTANT  
MIDWAY STORAGE FACILITY  
T. SCOTT SMITH  
SUSAN MORRIS  
JANIE FLETCHER  
MUNICIPAL COURT ASST.  
PROSECUTOR  
GRAYSON COUNTY, TEXAS  
CAROL M. SIEBMAN  
MICHAEL SISSNEY  
MATT RALSTON  
WHITNEY BREWSTER  
RON CLARK  
AMOS L. MAZZANT, III  
CHRISTINE A. NOWAK  
CARL E. STEWART

Dismissed: Feb. 1, 2021 (Doc [13])

- Appeal

USCA5, No. 21-40158

TAYLOR v. CITY OF SHERMAN,  
BRANDON SHELBY

CODY SHOOK  
FNU LNU, a/k/a ALEX AVILES  
ZACHARY FLORES  
BOB UTTER TOWING  
DRIVER  
DRIVER'S ASSISTANT  
MIDWAY STORAGE FACILITY  
T. SCOTT SMITH  
SUSAN MORRIS  
JANIE FLETCHER  
MUNICIPAL COURT ASST.  
PROSECUTOR  
GRAYSON COUNTY, TEXAS  
CAROL M. SIEBMAN  
MICHAEL SISSNEY  
MATT RALSTON  
WHITNEY BREWSTER  
RON CLARK  
AMOS L. MAZZANT, III  
CHRISTINE A. NOWAK  
CARL E. STEWART

Dismissed: April 20, 2021

## **Some Additional Related Proceedings**

### **Companion Malicious Prosecution case (2020)**

- Trial

15th Dist. Ct., Grayson County, Texas

No. CV-20-270

TAYLOR v. STATE OF TEXAS

### **The Malicious Prosecutions**

- Muni. Court (2017)

Sitting in CITY OF SHERMAN, TEXAS

T. Scott Smith, presiding

STATE v. TAYLOR

No. 1700002951 (no "license")

No. 1700002952 (no DMV-*approved* taggage)

No. 1700002953 (no registration)

No. 1700002954 (no insurance)

No. 1700004472 (no appearance)

Advisory panel proceeding: Feb. 8, 2018.

- County Court (2018)

COUNTY COURT-AT-LAW NO. 2

GRAYSON COUNTY, TEXAS

Carol M. Siebman, presiding

STATE v. TAYLOR

No. 2018-2-0223

No. 2018-2-0224

No. 2018-2-0225

No. 2018-2-0226

No. 2018-2-0227

Dismissed: Feb. 18, 2019. (Exs. 01 to 05)



**The immediate effort in equity to mitigate  
damages – the “sanctions” issue (2017)**

• Trial

E.D.Tex., No. 4:17-CV-488

TAYLOR v. CITY OF SHERMAN,  
SHELBY,  
SHOOK,  
“ASSISTING OFFICER” (FNU LNU  
a/k/a AVILES),  
FLORES,  
BOB UTTER TOWING (B.U.T.),  
B.U.T.’s DRIVER,  
B.U.T.’s DRIVER’S ASSISTANT,  
MIDWAY STORAGE FACILITY, and  
BREWSTER (DMV).

Dismissed: Feb. 28, 2018 (Doc [76-1])

• Appeal

USCA5, No. 18-40272

TAYLOR v. CITY OF SHERMAN,  
SHELBY,  
SHOOK,  
“ASSISTING OFFICER” (FNU LNU  
a/k/a AVILES),  
FLORES,  
BOB UTTER TOWING (B.U.T.),  
B.U.T.’s DRIVER,  
B.U.T.’s DRIVER’S ASSISTANT,  
MIDWAY STORAGE FACILITY, and  
BREWSTER (DMV).

Affirmed, with Sanctions: July 8, 2019

Cert. Denied.

**The suit in N.D.Tex. arising from judicial abuse, including breach of Judge-Respondent agreement made in open court, in Walker County, Texas (2007)**

- Trial

N.D.Tex., No. 3:07-CV-1634

TAYLOR v. HALE (County Court judge)  
WEEKS (Dist. Atty. Walker County)  
GAINES (Muni. Ct. judge)  
CITY OF HUNTSVILLE  
WALKER COUNTY  
STATE OF TEXAS

Dismissed: Sept. 30, 2009

- Appeal

USCA5, No. 09-11057

TAYLOR v. HALE  
WEEKS  
GAINES  
CITY OF HUNTSVILLE  
WALKER COUNTY  
STATE OF TEXAS

Affirmed, with "warning:" Sept. 24, 2010

- Here

No. 10-819 (the early days – no Demand Letter)

**The 10-year Walker County matter in which Taylor first obtained his "no jurisdiction" rulings on his "no commercial nexus" defense**

County Court at Law, Walker County, Texas

No. 07-1392

STATE v. TAYLOR (*See* Exs. 06, 07)

**Taylor's Petition for  
a Writ of Certiorari to USCA5**

**Citations below**

None.

**Jurisdiction**

- (i) Date of Clerk's dismissal.  
No. 21-40158.  
Apr. 20, 2021 [+90: July 18 (Sun.), thus July 19]
- (ii) Extension(s).  
N/A
- (iii) Rule 12.5.  
N/A
- (iv) Statutes, Jurisdiction.  
28 U.S.C. §§ 1254(1), 2101(c).
- (v) Statutory challenges, Rules 29.4(b), (c).  
TEXAS's A.G. and U.S.'s S.G. are both served.

**Primary Statutory Provisions**

TEX. TRANSP. CODE § 502.001(45) ("vehicle").

28 U.S.C.A. §§ 636(a), (b), (c)(1), (c)(2) (consent, "civil cases").

28 U.S.C.A. § 455(a).

E.D.Tex. Local Rules. (~40 Exhibits; 61 total)

## Statement of the Case

### Jurisdiction – E.D.Tex.

28 U.S.C.A. §§ 1331, 1367; *but see* § 455(a).

### Merits – No “vehicle.” No Probable Cause.

#### No “transportation.”

Taylor wasn’t “carrying passengers or cargo.”  
Taylor wasn’t (1) removing people and/or property (2) from one place to another (3) *for hire* (4) under any choice of law, including that of “this state.”

#### No “consent.”

- No “Certificate of Title” trust for this van or in Taylor’s name; both had been terminated.
- No “registration” (no sticker on windshield) – meaning (in Texas):
  - No DMV-*approved* taggagge (Taylor’s Mom (1931-2018) returned DMV’s tags to County).
  - No inspection.
  - No insurance.
- No “license” – due to expiration.

#### Favorable ruling(s) + No Probable Cause.

All five “consent”-based charges were dismissed.  
Plus, Taylor’s display of clearly legible *non*-DMV-  
approved taggagge negated Probable Cause *ab initio*.

### Service and “at filing” Compelled Arbitration

“At filing,” Taylor understood that SHOOK had moved out of state. Plus, there’s one openly recalcitrant party (plus three generic parties).

“At filing,” *if* E.D.Tex. didn’t change policies, there’d be no authority in *any* Summons, given their addiction to “at filing” District-wide Disqualification.

“At filing,” *pro se*’s face the jurisdictional abuses of compelled commerce (*represented* plaintiffs *aren’t*

compelled into arbitration "at filing"), compelled arbitration, denial of access, denial of trial, and etc. To the non-consenting party, "at filing" referral, of anything, activates *all* threshold jurisdictional issues. So, when *does* the non-consenting party stop participating? Apparently, "immediately," per *Roell*, i.e., "at filing," is too early. E.g., Nos. 20-1325, -1475.

Adversarial ("immediately" *can't* be too early) v. Administrative (but it *can*). How, then, *does* the non-consenting *pro se* preserve "at filing" the non-consent issue? Via the *ex parte* motion for extension regarding Service. Given one unworkable "unknown" and one unworkable "known," Taylor moved "at filing" for time to perform Service. Since E.D.Tex. gratified, one more time, their *decades*-long "at filing" addiction to "at filing" Disqualification, who throughout E.D.Tex. had *authority* to grant or deny *that* motion?

Two picosecond-timed scenarios: (A) All plaintiff's filings go in; then comes the "at filing" compelled arbitration; (B) plaintiff's Orig. Compl. gets filed, which faster-than-instantly triggers the compelled arbitration policy; *then* the "at filing" motion is filed.

The Docket Sheet *should* track (A); it tracked (B). Taylor delivered (via overnight) one package: Orig. Compl., with its Exhibits; motion for extension; and, the filing fee. *Cf.* No. 5:20-CV-139-SLP, Taylor v. Sherman, W.D.Okla. (one pkg). Whether (A) or (B) is what *should* be, Taylor's "at filing" motion regarding Service, necessarily *ex parte*, preserves not only the Service issue but also *all* threshold jurisdictional issues. A Summons, exactly as with Discovery, is worthless when issued from, styled under, a court that has absolutely no authority to do *anything*.

## Sanctions

It's fascinating how *many* threshold barriers must be overcome just to "break *into*" court these days.

The sanctions are illegal.

Since "sanctions" are the basis for denial of access on appeal, their merits are here subject to review.

### A RULING CONFIRMING THE "NO COMMERCIAL NEXUS" DEFENSE ALREADY EXISTS.

Perkins has done the heavy lifting in these matters. The bulk of the discussion is in 3d.CoA and USCA5, which bodies are co-dependent, feeding on each other's *refusals* to reflect on the obvious *and* to analyze the statute(s), e.g., per *Lozman* (2013). 3d.CoA says that the "no commercial nexus" defense is "rejected." USCA5 boldly calls it "frivolous."

Both "rejected" and "frivolous" are legally impossible. See Exs. 06, 07.

Where the *pro se* is moronic, the County Judge *and* DA are also. USCA5's, 3d.CoA's ego-, political-angle is along this line: "What could a *county* judge (all morons, of course) *possibly* know? *We're* the appellate court; so, *we* tell you what the law is." Yet, *this* (moronic) County Judge clearly knew enough to apply *Lozman* (2013), as presented by the (moronic) *pro se*, to the updated, materially changed commercial, *jurisdictional* facts, so as to dismiss, which rulings the (moronic) DA *didn't* appeal.

"No consent" means "no commercial nexus," thus "no jurisdiction." Exs. 06, 07. The defense *can* be "denied" or "overruled," where there turns out still to be some clandestine fact still activating "consent." But, since these *aren't* pre-screened, "I don't consent" can never *lawfully* be "rejected," stigmatized as "frivolous," or "sanctioned." Such policies compel

consent, compel commerce, deny access, and deny not only a *complete* defense but also any defense, *at all*.

**MANDAMUS IS JUDICIAL, NOT LEGISLATIVE.**

Mandamus exists, but it's a *Judicial* Power.

Legislative Power is *prohibitive* in nature. In the United States, *mandamus* Legislative Power, as *still* "seen" by USCA5 and 3d.CoA," has *never* existed.

Obviously, "Thou shalts" *are* enforceable. *Cf. Wilkie v. Robbins.*

- Thou shalt get a Certificate of Title;
- Thou shalt register;
- Thou shalt display that registration windshield sticker;
- Thou shalt purchase insurance;
- Thou shalt get inspections;
- Thou shalt display DMV-approved taggagge;
- Thou shalt get a "licence."

But, no "Thou shalt" within the territory to which the jurisdiction extends is enforced without evidence of "consent." Mandamus is for *agreements*, not *edicts*.

So, it's facially nuts, *and* illegal, for USCA5 to stigmatize as "frivolous," 3d.CoA to "reject," the only actual *defense* (liability) to these commercial-nexus-dependent matters: "No commercial nexus." *All* other responses sound in negotiations (*sentencing*).

USCA5's policy is just about as illegal as it gets. "You're trying to *mitigate* the state actors' damages by requesting holding status quo pending the outcome, because you're demanding that STATE actually *prove* jurisdiction, which it *can't*, as you've already proved once before on this very same fact pattern? – You're **sanctioned!** You **terr\*rist**, you!"

The sanctions are satisfied.

*Cf. B-3 (permission until paid) with A-27 (effectively, permission regardless of paid). Clerks can't rewrite an order's substance!*

Taylor submitted, under protest, a money order of the amount illegally demanded by USCA5: \$500. The context preserves his objection to that outrage. USCA5 boldly admits receipt while simultaneously both keeping it (the "document") *and* asserting non-satisfaction. B-4 to -5. USCA5 can't *legally* do both. UCC (negotiable instruments).

## **Argument**

### **Threshold Service**

#### **1. Was it abusive to deny that extension?**

There being no consent, no arbiter (d/b/a "magistrate") had signature authority. Extension was denied via dismissal, ordered by a Disqualified judge. Violation of law, especially jurisdiction, is abusive.

### **Malicious Prosecution**

#### **Compelled consent – "transportation"**

#### **2. Is the TEX. TRANSP. CODE "unconstitutional," as applied?**

Consent cannot be compelled. *Lozman*, 568 U.S. 115 (2013).

#### **Compelled commerce – Illegal seizure**

#### **3. Did Respondents illegally seize Taylor's van?**

Taylor's van wasn't a "vehicle." They had Notice: (A) from Taylor, via his *non*-DMV-approved taggage; (B) from *themselves*, via *all* their *facially* "consent"-dependent, "Thou shalt" "charges."



## **Compelled consent – magistrate participation**

### **4. Was it abusive to dismiss?**

Taylor pled the facts. *Twombly*, 550 U.S. 544 (abrogating *Conley*, 355 U.S. 41), and *Iqbal*, 556 U.S. at 677-80 (applying *Twombly*).

Taylor never consented to arbitration. *Mathews*, 423 U.S. 261 (SSA appeal), A-6, is not a “civil case.”

## **Disqualification**

### **5. Is E.D.Tex. disqualified?**

In E.D.Tex., the *decades*-long, standing policy is to compel *pro se* plaintiff cases into arbitration. That policy compels commerce and consent, denies access, denies trial, and violates Structural Due Process.

## **Transfer of Venue**

### **6. Was it abusive to deny transfer to N.D.Tex.?**

There is *not one* dissenting voice throughout E.D.Tex. regarding its “at filing,” compelled commerce / consent / arbitration policy.

N.D.Tex. is the next closest U.S. trial court.

## **Sanctions**

### **7. Is USCA5’s dismissal abusive?**

USCA5’s sanctions are illegal.

There is only one actual defense to *any* commercial-nexus-dependent “charge:” “No commercial nexus,” which, *necessarily*, is / means “no jurisdiction.” This defense is systemically stigmatized via the FBI/SPLC orchestrated “witch hunt” programme, by which all “jurisdiction” challengers are libeled and slandered as “domestic terr\*rists.” USCA5 flat out stigmatizes “no commercial nexus” as “frivolous,”

which amounts to compelled consent, compelled commerce, denial of access, and not only denial of a *complete* defense but also of any defense, *at all*.

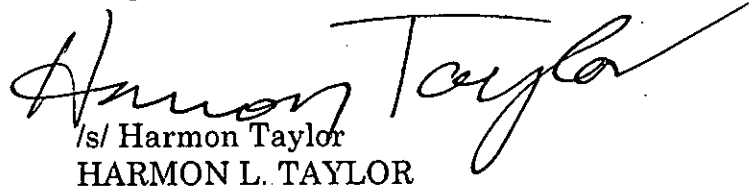
The sanctions were satisfied.

**Clerks can't rewrite orders.** Taylor paid the \$500. USCA5 admits receiving payment and yet *still* asserts non-satisfaction. B-4 to -5.

### **Relief Requested**

1. Grant this petition.
2. Vacate USCA5's dismissal, thereby dissolving the sanctions ruling / barrier.
3. Reinstate the appeal and either remand to USCA5, or, alternatively, transfer it to, say, USCA10, USCA11, or USCA-DC.
4. Or, preferred, if already possible,
  - a. Vacate E.D.Tex.'s dismissal.
  - b. Declare TEX. TRANSP. CODE "unconstitutional," as applied.
  - c. Reinstate Taylor's "civil case," and either
    - i. directly Remand to N.D.Tex (Dallas) or
    - ii. Remand with instructions to transfer to N.D.Tex. (Dallas).
5. Award costs; and
6. Grant all other relief applicable.

Respectfully submitted,

  
/s/ Harmon Taylor  
HARMON L. TAYLOR