

Case No. 21-5403

In the Supreme Court of the United States

CHARLES EDWIN TUMLINSON,

Petitioner - Appellant

v.

BOBBY LUMPKIN, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE,

Respondent - Appellee

**On Petition for Writ of Certiorari to:
The United States Court of Appeals
(Fifth Circuit)**

"PETITION FOR REHEARING"

**Charles Edwin Tumlinson
(Pro Se)
938 S. FM 1673
Snyder, Texas 79549**

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

Lane v Brown 372US477 (1963 US Supreme Court). Pro Se has a right to
counsel on appeal to secure 14th Amendment right.

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STATUTES AND RULES

OTHER

Code of Judiciary Conduct Canons 2.3 contained in Govt. c.t.2

2

Sub chapter 6 app.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Judge violated the code of Judiciary Conduct Canons 2.3 contained in Govt. c.t.2 Sub chapter 6 app.

Failed to prevent bringing about a wrongful conviction, Allowed forced waiver to unconstitutionally convict.

Judge showed substantial prejudice against the defendant.

Judge failed arbitrary test.

Judge became conspirator with Defense attorney and State attorney cooperating under calculated action to invade the substantive rights of the defendant.

Judge harmed the defendant's rights by predisposition caused by bias and prejudice.

Judge showed favoritism toward the Prosecution.

Trial Court failed to avoid improprieties in direct violation of Code of Judicial Conduct of Texas Law to remain neutral, having loss impartial character invoking mandated disqualification by USC & 455 (a) having loss the neutral objective character of the Judge by which a fair judgment is possible.

Judge allowed circumstantial evidence and inferences of Guilt were speculative.

The relevance of the lack of criminal intent in its context is of character with conformity value in the zone of reasonableness disagreement under the charged offense and were the case to be reversed under JACKSON Review Process, an acquittal would be constitutional entitled relief.

STATEMENT OF THE CASE

PRO SE Filings

Lane v Brown 372US477 (1963 US Supreme Court). Pro Se has a right to counsel on appeal to secure 14th Amendment Right.

I, Charles Edwin Tumlinson, am Pro Se and indigent. Recently, after filing my "Petition for Writ of Certiorari" on Aug. 16, 2021, I received reports that the FBI had investigated the county court trial judge and District Attorney in the 149th Judicial District Court of Brazoria County, Texas. The illegal actions of the trial court judge and District Attorney are grounds within my Petition for Writ of Certiorari and my Habeas Corpus. The FBI has filed charges against the Trial Court Judge and the District Attorney. Both have resigned.

Petitioner was denied his right to trial by jury. In 2016 the petitioner filed in the Texas Court of Criminal Appeals for a trial by jury. It was denied with no explanation. Petitioner filed a petition for trial by jury to the U.S. District Court. The U.S. District Court misconstrued the motion for trial by jury as an Article 11.07 writ, which it dismissed, stating, "Court is mystified" and did not understand what "I" wanted. Petitioner filed another "motion for trial by jury" and the court misconstrued it as a 2254. The Petitioner responded that he did not understand what a 2254 was and that his petition and motions for a constitutional Jury Trial is the Relief Requested and continuously, in diligence, sought after a forced involuntary plea of Guilty and Ineffective Assistance of Counsel because counsel forced a waiver under an agreement under ~~duress~~ ^{duress} ~~direction~~ by the petitioner that was withheld from the court by defense counsel. The Petitioner notified this honorable court that he was denied Due Process, because the court did not appoint new counsel representation or a new trial, reaching the safeguards of the Federal Constitution to do so.

REASONS FOR GRANTING THE PETITION

Grounds

1. The Trial Court erred when it failed to ensure Effective Assistance of Counsel.
2. The Trial Court erred when it denied Due Process and a fair and impartial trial.
3. The Trial Court became biased and prejudiced the defendant allowing a forced waiver to be performed under ~~direction~~ ^{duress} and failed the arbitrary rule to remain impartial because the court failed to resolve issues that only the court could resolve.
4. The substantial rights of the Petitioner were invaded, with no remedy at trial to resolve, because the court was partial to the charged offense denying all fairness under the Constitution's protections to prevent a Miscarriage of Justice, which has occurred in this cause, and the Petitioner invokes this court's Miscarriage of Justice standard for review.
5. The honorable Judge Terri Holder of the 149th District court Brazoria County, Texas has resigned under accusation of Judicial Misconduct and corruption charges and conspiracy to falsely convict. Also, District Attorney Jerri Yenne has resigned from the District Attorney's office in Brazoria County, Texas under accusation of conspiracy, abuse of office and malicious prosecution. The corruption charges against D.A. Yenne have not received an answer nor has the D.A. denied the charges.

Due to the Petitioner's Legal illiteracy, Petitioner respectfully requests relief from toll. Since I'm wrongfully and illegally imprisoned and indigent, I am requesting appointment of Counsel to investigate the FBI investigation findings that directly impact my claims and "Petition for Writ of Certiorari." Furthermore, due to the illegal and corrupt actions of the trial court judge and District Attorney involved in my case and habeas corpus, I am illegally imprisoned and my life is in jeopardy. Therefore, I request that this court order my immediate release on personal recognizance. ~~The letter from the Clerk of the Supreme Court dated and postmarked on August 17, 2021, was not received by~~

me until October 14, 2021 (58 days after the postmark date). This caused significant delays in my response, since I had no case # to file the "Supplemental Brief."

Conclusion

This "PETITION FOR REHEARING" should be granted.

Respectfully Submitted,

Charles E. Tumlinson

Date: 10/27/2021

Respectfully Resubmitted,
Charles E. Tumlinson 11/23/21

"Certificate of Statement"

This enclosed "Petition for Rehearing" is limited to intervening circumstances of substantial or controlling effect or to ~~QUESTION(S) PRESENTED~~ other substantial grounds not previously presented as follows:

Petitioner was denied his right to trial by jury.

Recently the FBI has filed charges against the Trial Court Judge and the District Attorney, both resigned.

Lane Vs Brown 372US477 (1963 US Supreme Court). Pro Se has a right to counsel on appeal to secure 14th Amendment Right

Petitioner requested a jury trial, insisting upon a fair and impartial trial under constitutional entitlement. Counsel, in cooperation with the Texas State Attorney, forced an involuntary plea of Guilty (forced waiver).

The Trial Court erred when the Judge became arbiter for the State, allowing a forced waiver to be

Question(s) Presented:
executed. Moreover, did not the Defense Counsel create a conflict of interest, when he pursued the interests of the State, abandoning his client?

I, Charles E. Tumlinson, certify that this "Petition for Rehearing" is presented in good faith and not for delay.

Sincerely,
God loves you!

Charles E. Tumlinson
11/23/21

Case No. 21-5403

In the Supreme Court of the United States

Charles Edwin Tumlinson - Petitioner
(Your Name)

VS.

Bobby Lumpkin, Director, Texas Department Of Criminal Justice - Respondent

PROOF OF SERVICE

I, Jerry Pedersen, do swear or declare that on this date, NOVEMBER 6, 2021, as required by the Supreme Court Rule 29 I have served the enclosed PETITION FOR REHEARING on each party to the above proceeding or that party's counsel, and on every other person required to be served, by depositing an envelope containing the above documents in the United States mail properly addressed to each of them and with first-class postage prepaid.

The names and addresses of those served are as follows:

Bobby Lumpkin, Director of Texas Department of Criminal Justice

P.O. Box 99

Huntsville, Texas 77342-099

I declare under penalty of perjury that the foregoing is true and correct.

Executed on NOVEMBER 6, 2021

Jerry Pedersen
(Signature)