

No. _____

21 - 5675

IN THE

SUPREME COURT OF THE UNITED STATES

ORIGINAL

JAYSON NEIL SPARKS

(Your Name)

— PETITIONER

vs.

BOBBY LUMPKIN - DIR TDCJ-ID

— RESPONDENT(S)

FILED

JUN 17 2021

OFFICE OF THE CLERK
SUPREME COURT, U.S.

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

JAYSON NEIL SPARKS

(Your Name)

2101 FM 369 NORTH

(Address)

IOWA PARK, TEXAS 76367

(City, State, Zip Code)

N/A

(Phone Number)

QUESTION(S) PRESENTED

- WAS PETITIONER NOT OWED THE MINISTERIAL DUTY BY THE U.S. DISTRICT COURT OF A FULL AND FAIR HEARING OF THE FILED § 2254 HABEAS CORPUS?
- ACCORDING TO U.S. CONSTITUTION AMENDMENTS V, IX, AND CLEVELAND BOARD OF ED. V LOUDERMILL, 105 S.CT 1487 (1985) - WERE NOT PETITIONERS RIGHTS VIOLATED WHEN THE U.S. DISTRICT COURT FAILED TO RECOGNIZE "NEW EVIDENCE" OF DEFECTIVE INDICTMENT WHEN CONSIDERING THE LANGUAGE OF FRCP # 1, #7, AS WELL AS FR OF EVID # 301, # 401, AND # 902?
- ACCORDING TO U.S. CONSTITUTION AMENDMENT V, AND TEXAS CONSTITUTION ARTICLES § 1.04, § 1.05, § 21.01, AND § 21.02(9) DID THE STATE OF TEXAS HAVE PROPER JURISDICTION TO PROSECUTE AND CONVICT PETITIONER WITH THE DISTRICT ATTORNEY'S SIGNATURE ON THE INDICTMENT DOCUMENT WHERE IT SPECIFIES THAT OF THE GRAND JURY FOREMAN?
- ACCORDING TO 28 USC § 47 AND/OR 28 USC § 455 WAS IT APPROPRIATE FOR JUDGE DUNCAN TO ADJUDICATE TO REQUEST FOR PANEL REHEARING BEING AS HE DENIED THE MOTION FOR COA?
- WHERE IS THE JUSTICE IN THE PROSECUTION OF A "CRIME" THAT THE VICTIM CONTENDS WAS NOT A CRIME BUT AN ACCIDENT, THE DEFENDANT WAS ARRESTED TWO MONTHS BEFORE THE COMPLAINT WAS FILED, THE "CRY OUT" WITNESSES (PLURAL) DIDN'T LEGALLY QUALIFY AS SUCH, THE DISTRICT ATTORNEY SIGNED THE INDICTMENT ERRONEOUSLY, AND HABEAS RELIEF IS ELUSIVE?

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

THE STATE OF TEXAS V JAYSON NEIL SPARKS - CASE NO. C-3-W011414-1403502-A

CRIMINAL COURT DISTRICT #3 TARRANT COUNTY, TEXAS JUDGEMENT ENTERED AUG 8, 2016

JAYSON NEIL SPARKS V THE STATE OF TEXAS - CASE NO. WR-89, 311-01

COURT OF CRIMINAL APPEALS @ AUSTIN, TEXAS JUDGEMENT ENTERED FEB 27, 2019

JAYSON NEIL SPARKS V LORI DAVIS - DIR TDCJ-ID CASE NO. 4:19-CV-265A

US DISTRICT COURT - N. DIST of TX @ FT WORTH DW JUDGEMENT ENTERED JUNE 15, 2020

JAYSON NEIL SPARKS V BOBBY LUMPKIN - DIR TDCJ-ID CASE NO. 20-10667

US COURT OF APPEALS - 5TH CIRCUIT JUDGEMENT ENTERED MARCH 5, 2021

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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.

☐ For cases from **state courts**:

The opinion of the highest state court to review the merits 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 _____ 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 MARCH 5, 2021.

☐ 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: MARCH 29, 2021, 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 _____.
A copy of that decision appears at Appendix _____.

☐ 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

UNITED STATES CONSTITUTION AMENDMENT V

UNITED STATES CONSTITUTION AMENDMENT IX

28 USC § 47

28 USC § 455

28 USC § 2254

FEDERAL RULES OF CIVIL PROCEDURE - RULES # 1, # 7

FEDERAL RULES OF EVIDENCE - RULES # 301, # 401, AND # 902

TEXAS CONSTITUTIONAL ARTICLES # 1.04, # 1.05, # 21.01, # 21.02(9)

STATEMENT OF THE CASE

PETITIONER WAS SUBJECT TO A "CUSTODIAL INVESTIGATION" AUG 8, 2014, ARREST AFFIDAVIT - NOT WARRANT, [ACCORDING TO TX CCP AFFIDAVIT USUALLY ONLY VALID FOR 30 DAYS] - WAS ISSUED DEC 14, 2014, AND PETITIONER WAS ARRESTED ON FEB 12, 2015, YET AT NO TIME DID PETITIONER EVEN RECEIVE ANY MIRANDA WARNINGS.

PETITIONER BOUNDED OUT ON FEB 13, 2015.

ACCORDING TO THE RECORD COMPLAINT AGAINST PETITIONER WASN'T FILED UNTIL FEB 19, 2015.

JUNE 22, 2015 INDICTMENT DOCUMENT WAS PRODUCED WITH WHAT WOULD APPEAR TO BE THE DISTRICT ATTORNEY'S SIGNATURE IN THE PLACE OF THE GRAND JURY FOREMANS.

AUG 1, 2016 TRIAL COMMENCED TO WHICH ON AUG 8, 2016 PETITIONER WAS CONVICTED AND SENTENCED TO 30 YEARS CONFINEMENT FOR TEXAS PENAL CODE ANN. § 21.02(b).

PETITIONER'S DIRECT APPEAL WAS FILED ON FEB 16, 2017, AND OVERRULED AUG 24, 2017.

PETITIONER'S § 11.07 STATE HABEAS WAS FILED ON DEC 12, 2018 - GROUNDS SOUGHT WERE: BURDEN OF PROOF, JUDICIAL ERROR, PROSECUTORIAL MISCONDUCT, INEFFECTIVE ASSISTANCE OF COUNSEL, AND EVIDENCE - § 11.07 HABEAS WAS DENIED WITHOUT WRITTEN ORDER FEB 27, 2019.

PETITIONER TIMELY FILED HIS § 2254 WITH THE U.S. DISTRICT COURT - NORTHERN DISTRICT OF TEXAS - ON MARCH 29, 2019, IN WHICH "NEW EVIDENCE" WAS INTRODUCED IN RESPONSE ASSOCIATED TO APPLICATION UNDER FRCP # 7 - § 2254 HABEAS WAS DISMISSED IN PART AND DENIED IN PART, WITH PREJUDICE, JUNE 15, 2020.

PETITIONER FILED TIMELY MOTION FOR CERTIFICATE OF APPEALABILITY WITH THE COURT OF APPEALS FOR THE FIFTH CIRCUIT WHICH WAS DENIED MARCH 5, 2021, AND THEN MOTION FOR REHEARING TO WHICH WAS ALSO DENIED MARCH 29, 2021 BY THE SAME JUDGE IN VIOLATION OF 28 USC 455.

PETITIONER HAS FILED WRIT OF HABEAS CORPUS WITH THE SUPREME COURT OF THE UNITED STATES ON JULY 13, 2021 TO WHICH HE HAS BEEN INSTRUCTED TO RESUBMIT IN CERTIORARI FORM TO CORRECT DEFECTS.

REASONS FOR GRANTING THE PETITION

EVERYTHING THAT HAS HAPPENED AS DOCUMENTED GOES BEYOND THE DEFINITION OF MISCONDUCT OF JUSTICE, FROM THE ARREST AFFIDAVIT ON DEC 14, 2014 WITHOUT HAVING THE COMPLAINT TO BACK IT UP, TO THE ARREST WITHOUT MIRANDA ON FEB 12, 2015, TO THE INDICTMENT DOCUMENT, TO THE TRIAL WHERE THE ALLEGED "VICTIM" CONTENDED NOT ONLY ONCE BUT TWICE THAT NO CRIME HAD OCCURRED, TO THE INCOMPETENT APPEAL ATTORNEY, TO THE DENIAL BY THE U.S. DISTRICT COURT TO RECOGNIZE NEW EVIDENCE AS PRESENTED THROUGH PART OF § 2254 HABEAS APPLICATION UNDER FRCP 7(2), TO THE DENIAL OF COA AND THEN REHEARING BOTH BY THE SAME JUDGE IN VIOLATION OF 28 USC 455.

THIS ENTIRE MATTER HAS GONE IN A DIRECTION THAT OUR FOUNDING FATHERS WOULD BE APPALLED WITH WHICH IS WHY THEY TRIED TO ENSURE THE SAFETY OF THE CITIZENS AGAINST GOVERNMENT AND ITS AUTHORITIES GETTING OUT OF HAND AND/OR CONTROL LIKE APPEARS TO BE THE CASE AT HAND.

THE UNITED STATES CONSTITUTION AMENDMENT(S) V AND IX, MADE APPLICABLE THROUGH XIV SHOULD ENSURE CITIZENS FAIR TREATMENT AND GUARANTEE TRUE DUE PROCESS.

CLEVELAND BOARD OF ED V LOUDERMILL, 105 S CT 1407 (1985); BOUNDS V SMITH, 97 S. CT. 1491; CONOVER V MONTEMURO, 477 F.2d 1073; HAINES V KERNER, 404 US 519 (1972);

TEXAS ARTICLE(S) § 1.04, 1.05, 21.01, 21.02(a), 21.19, 21.22, 21.23;

SOTO V STATE, 623 SW2d 938 (TEX CRIM APP 1981); KEAGAN V STATE, 618 SW2d 54 (TEX CRIM APP 1981); AND COOK V STATE, 902 SW2d 471 (TEX CRIM APP 1995) SHOULD ALL BE REVIEWED, CONTEMPLATED, AND THEN APPLIED TO THIS CASE AS APPROPRIATE.

THESE ARE REASONS TO GRANT PETITION.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Jayson Neil Sparks

Date: August 27, 2021