

ORIGINAL

Supreme Court, U.S.
FILED

MAR 09 2021

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No. 21-5710

IN THE

SUPREME COURT OF THE UNITED STATES

CHARLES L. FIELDGROVE — PETITIONER
(Your Name)

VS.

SCOTT R. FRAKES, ET AL. RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

NEBRASKA SUPREME COURT

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

PETITION FOR WRIT OF CERTIORARI

CHARLES L. FIELDGROVE

(Your Name)

N.D.C.S. No. 70650

4201 S. 14th Street

(Address)

Lincoln, Nebraska 68502

(City, State, Zip Code)

(Phone Number)

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SUPREME COURT, U.S.

QUESTION(S) PRESENTED

1. A Criminal Defendant's initial Habeas Corpus action, filed for the purpose determining the validity of the statutes convicted and sentence under, as being void, is a court's finding voidable, an apprehensible burden on defendant's due process and equal protection rights afforded to him pursuant to Ne. Const. Art. 1, Sec. 3., and the U.S. Const. Amend. 14, Sec. 1.?
2. Is a court prohibited from requiring a Criminal Defendant to file multiple action's merely because a court refuses in it's discretion finding a matter voidable, rather than determining the validity of the statutes constitutionality?

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:

Scott R. Frakes, Director Of Nebraska Department Of Correctional Services, at: P.O. Box 94661, Lincoln, Nebraska 68509-4661;

Michele Wilhelm, Warden of Nebraska State Penitentiary, at: 4201 S. 14th Street, Lincoln, Nebraska 68502;

Whom's counsel is Nebraska Attorney General Douglas J. Peterson, Kimberly A. Klein #17716, at: 2115 State Capitol Building, Lincoln, Nebraska 68509-8920.

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TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
* SANDERS v. FRAKES, 295 Neb. 374, 888 N.W.2d 514 (2016);	Pg.6
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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 _____ 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 2/18/2021.
A copy of that decision appears at Appendix G1-11, Page 17-27.

☐ 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

Ne. Const. Art. III, Sec. 14. (1997);
Neb. Rev. Stat. Sec. 28-319 (1), (Reissue 2006);
Neb. Rev. Stat. Sec. 28-320.01 (1), (Reissue 2006);
Neb. Rev. Stat. Sec. 71-907 (Reissue 2004);
Neb. Rev. Stat. Sec. 71-1107 (1), (Reissue 2017);
Neb. Rev. Stat. Sec. 83-1205 (1), (Reissue 2016);
Neb. Rev. Stat. Sec. 20-162 (5), (Reissue 2006);
42 U.S.C.A. Sec. 15001 (4),(5), (Reissue 2005);
42 U.S.C.A. Sec. 10802 (2),(3),(4),(A), (2000);
42 U.S.C.A. Sec. 10805 (a),(3), (2016);
53 Am. Jur. 2d Mentally Impaired Persons, Sec. 83, (2020);
Ne. Const. Art. 1, Sec. 16., (1875);

STATEMENT OF THE CASE

Nature Of The Case: The petitioner states the nature of this case is one of equity on Habeas Corpus petition pursuant to Neb. Rev. Stat. Sec. 29-2801 et seq. (Reissue 1929), claims that the subject matter, and alleged offense(s), e.g. First Degree Sexual Assault, Neb. Rev. Stat. Sec. 28-319 (1), (Reissue 2006), and Neb. Rev. Stat. Sec. 28-320.01 (1), (Reissue 2006), Sexual Assault Of A Child In the First Degree, violates the single-subject-rule, Ne. Const. Art. III, Sec. 14., (1997), by it's language "Any person" that is unconstitutionally broad, or unconstitutionally vague, to subject(s) whom suffer by mental defect, disease, disorder, impairment, illness, that caused or substantially contributed to the cause of the alleged offense(s), as apposed to subject(s) that do not suffer from mental disease, disorder, impairment, illness, to criminal liability, that is protected by Nebraska Mental Health, and the United States Mental Health laws, therefore, ex post facto, to the established laws governing those subjects.

Issues Tried In Court Below: The petitioner filed a Petition For: Writ Of Habeas Corpus pursuant to Neb. Rev. Stat. Sec. 28-2801 et seq. (Reissue 1929) on or about the 24th day of March, 2020, in the Lancaster County District Court, on or about the 10th day of April, 2020, the court, made an order, "the court finds that the petition for writ of habeas corpus should be, and hereby is, overruled," and "the allegations petitioner makes are collateral attacks on his convictions, exactly what Nebraska habeas corpus

jurisprudence does not permit", and "there are no allegations that the Sherman County District Court lacked personal or subject matter jurisdiction. Therefore, petitioner is not entitled to issuance of the writ as requested."

How Issues Were Decided An Order Entered: The Lancaster County

District Court, stated a number of authorities about habeas corpus petitions, on or about the 10th day of April, 2020, on what grounds and what Nebraska Habeas Corpus allows verses the Federal Habeas Corpus filings, thereafter, the court, stated "The allegations petitioner makes are collateral attacks on his convictions, exactly what Nebraska Habeas Corpus jurisprudence does not permit" and "There are no allegations that the Sherman County District Court lacked personal or subject matter jurisdiction. Therefore, petitioner is not entitled to issuance of writ as requested." Petitioner takes appeal. (See, APPENDIX A1-A3 through APPENDIX B1,C1,D1,E1) and (APPENDIX F1-F2 and APPENDIX G1-G11).

REASONS FOR GRANTING THE PETITION

The petitioner believes that sufficient evidence exists that the statute(s) in question are, or should be considered void, as being unconstitutionally broad, or unconstitutionally vague, either left standing substantially affects his rights to fundamental fairness, on statute(s) that substantially affect his liberties, the court(s), are misguided, or discriminatley permitted to follow laws that substantially affect the unfortunate, or mentally defected, for the above-stated reason(s) petitioner does request that this court will rule that the "exception" announced in DAVIS MAMAGEMENT, INC. v. SANITARY and IMP. DIST. No. 276 OF DOUGLAS COUNTY, supra., as to the finality of a judgement, and the rulings in EX PARTE SIEBOLD and NICHOLS v. RYSAVY, supra. in conjunction with BRADLEY v. HOPKINS, supra. to establish that a writ of habeas corpus submitted with the soul purpose of obtaining a judgement that the conviction and commitment, sentences, and any orders relating thereto, under statutes that are thought to be unconstitutionally broad, or vague, should not be forced to file successive action(s) to determine the validity of the statutes in question, as alleged in SANDERS v. FRAKES, supra. that does affect the courts jurisdiction of the subject matter, jurisdiction of the person. That the courts, have acted contrary to, pursuant to United States Supreme Court, Rule 10 (c), (2019), omits the constitutionality of the statutes in question. (APPENDIX F1-F2 and APPENDIX G1-G11).

CONCLUSION

The petition for a writ of certiorari should be granted. Petitioner states the foregoing is true and correct under penalty of perjury.

Respectfully submitted,

Charles F. Hildyrose
Charles F. Hildyrose

Date: March 18 / 2021
June 12 / 2021