

21-6244
No. _____

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IN THE
SUPREME COURT OF THE UNITED STATES

Supreme Court, U.S.
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Kirk Wayne M^C Bride, Sr. — PETITIONER
(Your Name)

vs.

THE STATE OF TEXAS — RESPONDENT(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
OR FOR A CERTIFICATE OF APPEALABILITY
OR FOR A WRIT OF HABEAS CORPUS
Kirk Wayne M^C Bride, Sr.

(Your Name)

No. #00733097, John M. Wynne State Plantation
810 F.M. 2821, West Hwy. 75, N.

(Address)

Huntsville, Texas. 77349-0005

(City, State, Zip Code)

(936) 295-9126

(Phone Number)

QUESTION(S) PRESENTED

QUESTION No. 1

IS A STATE FEDERAL HABEAS PETITIONER PURSUANT TO A PROCEEDING UNDER TITLE 28 U.S.C., SECTION 2241 REQUIRED TO OBTAIN A CERTIFICATE OF APPEALABILITY TO APPEAL THE DECISION OF A UNITED STATES DISTRICT COURT IN WHICH THE ISSUE TO BE ADJUDICATED DID NOT ARISE OUT OF A PROCESS ISSUED BY A STATE COURT OR IN WHICH THE DETENTION COMPLAINED OF DID ARISE OUT OF A PROCESS ISSUED BY A STATE COURT?

QUESTION No. 2

QUESTION No. 2

WHETHER THE COURT OF APPEALS SHOULD HAVE ISSUED A CERTIFICATE OF APPEALABILITY FROM THE DISTRICT COURT'S DETERMINATION THAT THERE WAS NO OUTSTANDING JUDGMENT AND ORDER OF CONVICTION IN CASE NO. #CR-94-311 SIMPLY BECAUSE THE PETITIONER HAD BEEN REINDICTED IN CASE NO. #CR-95-129 AND CONVICTED FOR THE SAME OFFENSE WHEN THE RECORD UNEQUIVOCALLY AND UNQUESTIONABLY SHOWS THAT THE STATE TRIAL COURT ADJUDICATED GUILT AND SENTENCED THE PETITIONER TO SIXTY (60) YEARS CONFINEMENT IN THE TEXAS DEPARTMENT OF CRIMINAL JUSTICE-CORRECTIONAL INSTITUTIONS DIVISION IN CASE NO. #CR-94-311?

QUESTION No. 3

DOES THE STATE SUBVERT OR INFRINGE UPON THE RIGHTS OF A CRIMINAL DEFENDANT UNDER THE DOUBLE JEOPARDY CLAUSE TO THE FIFTH AMENDMENT TO THE UNITED STATES CONSTITUTION MADE APPLICABLE TO THE STATES UNDER THE FOURTEENTH AMENDMENT TO THE UNITED STATES CONSTITUTION BY REFUSING TO ENTER OF RECORD A WRITTEN JUDGMENT AND SENTENCE OF CONVICTION THAT WAS PRONOUNCED IN OPEN COURT AND NEVER VACATED BY WAY OF APPEAL OR NEW TRIAL?

QUESTION No. 4

WHETHER A CRIMINAL DEFENDANT IS ENTITLED TO FEDERAL HABEAS CORPUS RELIEF WHEN THE TRUTH OF THE MATTER IS UNEQUIVOCALLY AND UNQUESTIONABLY SET FORTH IN THE STATE COURT TRIAL RECORD SHOWS A FINDING OF GUILT AND IMPOSITION OF PUNISHMENT THAT CLEARLY IMPLICATES A DOUBLE JEOPARDY CONCERN AND RIGHT THAT CALLS FOR THIS COURT'S SUPERVISORY POWER AND AUTHORITY TO GRANT HABEAS CORPUS RELIEF OR TO REVERSE AND REMAND THE CASE WITH INSTRUCTIONS?

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: (1) Jennifer Tharp, Criminal District Attorney, Comal County, 150 N. Seguin Ave., Ste. #307, New Braunfels, Texas, 78130.

RELATED CASES

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IN THE
SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI
OR FOR ISSUANCE OF A CERTIFICATE OF APPEALABILITY
OR FOR WRIT OF A HABEAS CORPUS

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below, or that the Court issue a certificate of appealability, or grant a writ of habeas corpus.

OPINIONS BELOW

For cases from **federal courts**:

The opinion of the United States court of appeals 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 United States district court appears at Appendix B 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 June 29, 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: August 04, 2021, and a copy of the order denying rehearing appears at Appendix C.

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). The Petitioner further seeks to invoke the jurisdiction of this Court under Title 28 U.S.C., Section 2253(c)(1)(A), Section 2241(a), and Section 1651(a).

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 - Fifth Amendment: No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment of indictment of 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 offense 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.

UNITED STATES CONSTITUTION - Fourteenth Amendment; Section 1: All persons born or naturalized in the United States, and subject to jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any laws 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.

TITLE 28 U.S.C., Section 1651(a): The Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law.

TITLE 28 U.S.C., Section 2253(c)(1)(A): Unless a circuit justice or judge issues a certificate of appealability, an appeal may not be taken to the court of appeals from; the final order in a habeas corpus proceeding in which the detention complained of arises out of process issued by a State court.

TITLE 28 U.S.C., Section 2241(a): Writs of habeas corpus may be granted by the Supreme Court, any justice thereof, the district courts and any circuit judge within their respective jurisdictions. The order of a circuit judge shall be entered in the records of the district court wherein the restraint complained of is had.

TEXAS CODE OF CRIMINAL PROCEDURE - Article 37.12: On each verdict of acquittal or conviction, the proper judgment shall be entered immediately.

STATEMENT OF THE CASE

On December 07, 1994, Petitioner was indicted in Cause No. #CR-94-311 for the alleged offense of Aggravated Sexual Assault - Habitual, Styled: The State of Texas v. Kirk Wayne ^C Bride. (Appendix D). On April 11, 1995, Petitioner was convicted in Cause No. #CR-94-311 before the 22ND Judicial District Court of Comal County, Texas. Punishment was imposed and pronounced at sixty (60) years confinement in the Texas Department of Criminal Justice-Correctional Institutions Division. (Appendix E). Given the trial court's ministerial duty to contemporaneously enter of record a signed written Judgment and Sentence of Conviction at the time sentence was imposed and pronounced, the trial court declined and has refused to enter of record a signed written Judgment and Sentence of Conviction.

The Petitioner was subsequently reindicted in Cause No. #CR-95-129 for the same offense, convicted and sentenced to ninety-nine (99) years confinement in the Texas Department of Criminal Justice-Correctional Institutions Division on September 08, 1995.

After exhausting State remedies, the Petitioner sought federal habeas relief under Title 28 U.S.C., Section 2241 in the United States District Court for the Western District of Texas, San Antonio Division in No. #SA-20-CV-931-FB, Styled: Kirk Wayne ^C Bride, Sr. v. The State of Texas. (Appendix B).

Before the district court, Petitioner argued that he was being deprived of his constitutional rights to Due Process as implicated by the 14TH Amendment to the United States Constitution because the State trial court has refused to enter of record a signed

written Judgment and Sentence of Conviction so that the sentence could be carried into execution, calculated and time-served assessed against the sentence.

On September 28, 2020, the district court dismissed the petition upon an excerpt taken from the Court of Appeals' Opinion in McBride v. Texas, No. #03-95-00596-CR, 1997, Tex.App. LEXIS 1284, at *1-4 (Tex.App.-Austin, Mar. 20, 1997, pet. ref'd)(not designated for publication). (Appendix B; pp. 3-4). The district court held that based on the Opinion excerpts, Case No. #CR-94-311 was subsequently reindicted as Case No. #CR-95-129, which resulted in the Petitioner's conviction and ninety-nine year sentence. Therefore, there is no outstanding Judgment and Order of Conviction in Case No. #CR-94-311. Consequently, the Petitioner's request for an Order directing the State of Texas to render a written Judgment [in Case No. #CR-94-311] so that the sentence can be carried into execution, calculated and time served assessed against the sentence. (Appendix B; p. 4). The district court furthered that given the fact that Case No. #CR-94-311 was reindicted in Case No. #CR-9-129, it concluded that the Petitioner failed to show that reasonable jurists would find its assessment of the constitutional claims debatable or wrong.

The Petitioner questioned the district court's determination under Rule 59(e) of the Federal Rules of Civil Procedure. The Petitioner argued that the district court erred in its determination that because the Petitioner had been reindicted in Case No. #CR-95-129 and convicted did not stand for a conclusion that there is no outstanding Judgment and Order of Conviction in Case No. #CR-94-311 when the State court record and evidence unequivocally

showed a finding of guilt and pronouncement of sentence that implicates the Double-Jeopardy Clause. The Petitioner argued that merely because he was reindicted for the same offense did not automatically allow the presumption that there was no outstanding Judgment and Order of Conviction when the evidence clearly and unquestionably showed an outstanding valid conviction. The district court denied the Rule 59(e) motion without explanation. (Appendix F).

The Petitioner timely filed a Notice of Appeal to the United States Court of Appeals for the Fifth Circuit and an Application for A Certificate of Appealability in No. #20-50898, Styled: Kirk Wayne ^{Mc}Bride, Sr. v. The State of Texas. On August 11, 2021 a United States Circuit Judge issued a general Order absent a reasonable explanation denying the application for a certificate of appealability. (Appendix A).,

Before the Fifth Circuit the Petitioner argued that the district court erred in its determination, that because the Petitioner had been reindicted in Case No. #CR-95-129 and convicted there was no outstanding Judgment of Conviction in Case No. #CR-94-311 when the State court record and evidence unquestionably and unequivocally showed that the Petitioner had been found guilty and sentenced to sixty (60) years confinement. The Petitioner argued that just because he had been reindicted for the same offense and conviction in Case No. #CR-95-129 did not lend itself to a conclusion that there was no outstanding Judgment of Conviction in Case No. #CR-94-311 when the record evidence showed that the Petitioner had been found guilty and sentenced as to implicate

the applicable provisions of the Double Jeopardy Clause. The Petitioner furthered that reasonable jurist would find the district court's assessment of the claim debatable and wrong because the record evidence unquestionably and unequivocally showed a finding of guilt and pronouncement of sentence.

The Petitioner petitioned the court of appeals for a Panel Rehearing that was generally denied upon the previous judges decision. (Appendix B).

REASONS FOR GRANTING THE PETITION

This Court should grant the foregoing petition—to determine whether a federal habeas petitioner is required to obtain a Certificate of Appealability (COA) to appeal the decision of a United States District Court upon which the issue to be adjudicated did not arise out of a process issued by a State court, or in which the detention complained of arose out of a process issued by a State Court? Notwithstanding, under the guidance of Rule 10(c) of the Supreme Court Rules this is an important question of federal law that has not been, but should be settled by this Court, or as to call for an exercise of this Court's supervisory power under Rule 10(a) of the Supreme Court Rules. This matter concerns the interpretation of Subsection (c)(1)(A) of Title 28 U.S.C., Section 2253 as applied by the court of appeals to this case.

The matter of importance is whether the Petitioner was required to first seek a COA to appeal the determination of the district court to dismiss the Petitioner's federal habeas petition under Title 28 U.S.C., Section 2241 when a COA is only needed to appeal the final order in a habeas corpus proceeding in which the detention complained of arise out of a process issued by a State court as set out in Section 2253(c)(1)(A). As this Court explained in *Miller-El v. Cockrell*, 123 S.Ct. 1029 (2003), a COA is a jurisdictional prerequisite, and until a COA has been issued, a federal court of appeals lacks jurisdiction to rule on the merits of the appeal from a habeas petitioner.

It must also be noted, that this matter calls into question the jurisdiction of this Court, and whether the Petitioner can

or is required to seek a COA from this Court, because Title 28 U.S.C., Section 2253(c)(1)(A) provides that "unless a Circuit Justice or judge issues a COA, an appeal may not be taken to the court of appeals from the final order in a habeas corpus proceeding in which the detention complained of arises out of process issued by a State court."

The district court under Fifth Circuit precedent cited *Stringer v. Williams*, 161 F.3d 259, 262 (5th Cir. 1998), requiring a State pre-trial detainee challenging his criminal charges pending against him to obtain a COA following the district court's denial of the habeas petition brought under Title 28 U.S.C., Section 2241.

This Court has not answered this question, and the decision of the court of appeals on this matter in *Stringer* is clearly in conflict with the text and plain language of Section 2253(c)(1)(A) wherein it is provided that a COA is only required for the purpose of an appeal if the detention complained of arises out of process issued by a State court.

In the instant case, the Petitioner is not challenging the criminal charges in this case, because absent a written Judgment and Sentence of Conviction in one aspect there is no final felony conviction. Furthermore, absent a written Judgment and Sentence of Conviction the Petitioner is not being detained pursuant to a process issued by a State court, as it is a matter that the Petitioner is being deprived of his constitutional rights to Due Process as implicated by the 14TH Amendment to the United States Constitution because the State trial court has refused and declined to enter of record a signed written Judgment and

Sentence of Conviction. To require the Petitioner to obtain a COA from the court of appeals or this Court from the district court's decision in a federal habeas proceeding under Title 28 U.S.C., Section 2241 would necessarily imply and/or infer that there is an outstanding Judgment and Sentence of Conviction in Case No. #CR-94-311 that would be totally contrary to the district court's determination that there is no outstanding Judgment and Order of Conviction in Case No. #Cr-94-311.

Provided that this Court finds that a COA is required in this case for the purpose of an appeal to the court of appeals, the Petitioner states that this Court should grant the petition to determine whether the court of appeals should have issued a COA from the district court's determination that there is no outstanding Judgment and Order of Conviction in Case No. #CR-94-311 simply because the Petitioner had been reindicted in Case No. #CR-95-129 and convicted for the same offense when the record unequivocally and unquestionably shows that the State trial court adjudicated guilt and sentenced the Petitioner to sixty (60) years confinement in the Texas Department of Criminal Justice-Correctional Institutions Division in Case No. #CR-94-311. (Appendix E; pp. 5-6). For the matter, this Court should issue a COA for the purpose of an appeal to the court of appeals from the decision of the district court.

Likewise, this Court should grant the petition to determine whether the State court subverted the Double-Jeopardy Clause of the Fifth Amendment to the United States Constitution made applicable to the States under the Fourteenth Amendment to the United States Constitution by refusing to enter of record a signed

written Judgment and Sentence of Conviction in Case No. #CR-94-311.

Further, this Court should grant the petition as it pertains to habeas corpus relief because as shown adequate relief cannot be obtained in any other form or from any other court on this matter in view of a record that supports a finding that there remains an outstanding Judgment and Sentence of Conviction in Case No. #CR-94-311.

This Court has jurisdiction to review a federal appeals' court denial of a COA. Hohn v. United States, 118 S.Ct. 1969 (1998). For review, the question before this Court is whether the court of appeals should have issued a COA from the district court's determination. Miller-EL v. Cockrell, 123 S.Ct. 1029 (2003). Notwithstanding, the Circuit Justice of this Court has the authority and jurisdiction to issue a COA. Title 28 U.S.C., Section 2253(c)(1)(A). This does not exclude the jurisdiction of this Court to grant habeas corpus relief under Title 28 U.S.C., Section 2241 and 1651(a).

As a matter of importance in light of the COA requirements, the court of appeals should have issued a COA to review the district court's denial of habeas relief, however, the court of appeals sidestepped the COA requirement and denied a COA in this case based on its view of the merits as it was based on the district court's denial of a COA who had concluded that a COA was meritless based on its determination that given the fact that Case No. #CR-94-311 was reindicted in Case No. #CR-95-129, the Petitioner failed to show that reasonable jurists would find that court's assessment of the constitutional claim debatable or wrong. (Appendix B; p. 4). The Petitioner argues that the district court's determination

that there is no outstanding Judgment and Order of Conviction in Case No. #CR-94-311 is at best suspect in face of the State court record. (Appendix E; pp. 5-6).

To be entitled to a COA the Petitioner need only establish that reasonable jurists would find the decision to deny relief debatable or wrong. *Slack v. McDaniel*, 120 S.Ct. 1595 (2000). As presented, the Petitioner has clearly shown, established and demonstrated that jurists could disagree with the district court's resolution of the case.

The district court's reasoning for denying relief was based on the standing that since the Petitioner had been re-indicted in Case No. #CR-95-129 and resulted in a conviction, there is no outstanding Judgment and Order of Conviction in Case No. #CR-94-311. (Appendix B; p. 4). Such determination was based on an excerpt of a court of appeals opinion that is clearly outweighed by the State court record and which was not apparently considered by the district court in it's decision. The district court makes no reference to the State court record or conducted an independent review of the State court record.

It is within both Federal and State law that when the State reindicts and accused for the same offense or for an offense arising from the same act, the second indictment merely institutes another new criminal action against the accused; it does not ipso facto vitiate the first indictment. The first indictment issued against the accused remains viable despite the issuance of a second indictment for the same offense. Simply because the accused has been indicted does no prevent the State from reindicting

the accused for the same offense or for an offense arising from the same act. *United States v. Stricklin*, 591 F.2d 1112 (5th Cir. 1979), *Trevino v. State*, 900 S.W.2d 815 (Tex. App. 13th Dist. 1995), and *Louis v. State*, 61 S.W.3d 593 (Tex. App.-Amarillo 2001).

The district court summarily "slam dunked" the Petitioner's claim, and there is no question that the Petitioner's claim did not receive a full and fair consideration on the merits based on the record evidence. The district court's decision was not based on the State court record, but instead was based upon an ad hoc application of the law. The State court record unquestionably and unequivocally shows that the State trial court adjudicated the Petitioner's guilt and pronounced sentence at sixty (60) years confinement. (Appendix E; p. 5-6). Under Texas law a criminal defendant begins to serve his or her sentence on the date sentence is imposed. *Ex Parte Madding*, 70 S.W.3d 131 (Tex. Cr. App. 2002), and *Ex Parte Alaniz*, 931 S.W.2d 26 (Tex. App. 13th Dist. 1996). Thus, jeopardy attached at the time the State trial court adjudicated the Petitioner's guilt and pronounced sentence. There is no question that there remains an outstanding conviction in Case No. #CR-94-311, and under Texas law the Petitioner had a Due Process right as implicated by the 14TH Amendment to the United States Constitution to a signed written Judgment and Sentence of Conviction under Article 37.12 of the Texas Code of Criminal Procedure. See., *Ex Parte George*, 913 S.W.2d 523 (Tex. Cr. App. 1995), Cf., *Sparkman v. State*, 55 S.W.3d 625 (Tex. App.-Tyler 2000); a judgment is as final when pronounced by the trial court as when entered and recorded by the Clerk. Entry of the judgment

contemporaneously with its pronouncement is the better practice, but delay in makeing the entry will not invalidate the judgment where no injury is shown to have occurred to the defendant.

Both the State court, district court, the court of appeals, and now this Court is well aware of the Double Jeopardy implications by the entry of a signed written Judgment and Sentence of Conviction in Case No. #CR-94-311 will have on the subsequent conviction acquired by the State in Case No. #CR-95-129 for the same offense.

However, the failure to enter a signed written Judgment and Sentence of Conviction in Case No. #CR-94-311 is the only means by which the State can subvert the protection afforded to the Petitioner under the applicable provisions of the Double Jeopardy Clause to the 5TH Amendment to the United States Constitution.

The Petitioner has clearly demonstrated and established that reasonable jurists would find the district court's decision to deny relief debatable or wrong, because the re-indictment of the Petitioner in Case No. #CR-95-129 did not ipso facto vitiate the indictment and conviction in Case No. #CR-94-311.

This Court cannot shut it's eyes to the State court record that unequivocally shows that the trial court entered a finding of guilt, pronounced and assessed punishment against the Petitioner at sixty (60) years confinement. After conviction, the Petitioner could have only withdrew the guilty plea upon a properly filed Motion for New Trial and an express written Order signed and entered by the trial court granting the motion, that simply does not exist in this case.

Thus, the court of appeals should have issued a COA, notwithstanding

this Court should issue a COA so that the Petitioner can appeal the decision of the district court, however, given that the court of appeals denied the COA based upon the merits it would be useless for the Petitioner to return and reargue his claim before the court of appeals, therefore, this Court should exercise its authority and jurisdiction under Title 28 U.S.C., Section 2241 and Section 1651(a) and grant the Petitioner relief.

Further, given the compelling reasons and nature of the case, this case warrant's the exercise of this Court's supervisory power under the district court's erroneous determination that there is no outstanding Judgment and Order of Conviction in this case because the Petitioner had been reindicted and convicted. Such would give no meaning to the afforded protection of the Double Jeopardy Clause of the Fifth Amendment to the United States Constitution made applicable to the States under the Fourteenth Amendment to the United States Constitution.

The Petitioner knows that he has standing and is entitled to relief, and that he has presented his complaint to this Court in a clear and concise way that a layman would understand the injustice associated with this case. Just because the Petitioner is Black, poor and proceeding pro se should not result in the "courthouse doors'" being shut on him. All the Petitioner seeks is vindication and equal protection of the law that he has been unable to get in any other court and now stands before this Court to fix the wrong and set the record straight.

It is the duty of a federal court to guard, enforce, and protect every right granted or secured by the United States Constitution.

Whenever a federal court sits, human rights, under the United States Constitution are always a proper subject for adjudication, and a federal court does not have the authority or right to decline the exercise of that authority and jurisdiction simply because the right asserted may be adjudicated in some other form or it's own consensus.

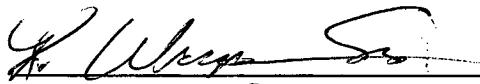
Article 37.12 of the Texas Code of Criminal Procedure provides that "On each verdict of acquittal or conviction, the proper judgment shall be entered immediately." The Texas Court of Criminal Appeals has explicitly held that this is a ministerial function of the trial court.

The Petitioner's claim clearly lies within the 14TH Amendment to the United States Constitution for the Petitioner has been deprived of his rights to Due Process because the State has completely abridged the Petitioner's rights to the entry of a signed written Judgment and Sentence of Conviction into record, and had deprived the Petitioner of the equal protection of the law as generated by Article 37.12 of the Texas Code of Criminal Procedure.

CONCLUSION

The petition for a writ of certiorari should be granted, or that the Court issue a certificate of appealability, or grant habeas corpus relief.

Respectfully submitted,



Kirk Wayne M=C Bride, Sr.

Date: October 28, 2021.