

No. 21-6662

ORIGINAL

Supreme Court, U.S.
FILED

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OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

BRYANT CHRISTOPHER WATTS, pro se PETITIONER
(Your Name)

vs.

THE STATE OF TEXAS — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

First Court of Appeals Houston
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Bryant Christopher Watts TDCJ #2286589
(Your Name)

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QUESTION(S) PRESENTED

DID THE COURT OF APPEALS ERR IN AFFIRMING THE TRIAL COURT WHERE EVIDENCE IS INSUFFICIENT TO REBUT THE AFFIRMATIVE DEFENSE OF SELF DEFENSE BEYOND A REASONABLE DOUBT?

IS IT UNCONSTITUTIONAL FOR HIGHER STATE COURTS TO REFUSE TO REVIEW CASES OF AFFIRMATIVE DEFENSE THAT WERE AFFIRMED ON DIRECT APPEAL?

WHAT IS PETITIONER REQUEST THE UNITED STATES SUPREME COURT DO REGARDING WRIT OF CERTIORARI IN THE MATTER OF BRYANT CHRISTOPHER WATTS, APPELLANT v. THE STATE OF TEXAS, APPELLEE?

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:

Presiding Judge at Trial
The Honorable Randy Roll
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RELATED CASES

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APPENDIX B- 179th DISTRICT COURT - HARRIS COUNTY ~~CONVICTED~~
October 7, 2019

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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

The opinion of the highest State Court to review the merits appears at Appendix A to the petition is unpublished.

The opinion of the FIRST COURT OF APPEALS appears at Appendix A to the petition and is unpublished.

JURISDICTION

The date on which the highest state court decided my case was December 9, 2020 (REFUSED). A copy of that decision appears at Appendix C.

An extension of time to file the petition for a writ of Certiorari was granted to and including June 16, 2021 to August 16, 2021 in Application No. A

The jurisdiction of this Court is invoked Under 28 U.S.C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Appendix A

Burks v. United States 437 U.S. 1, 98 S.Ct. 2141, 57 L.Ed. 2d 1 (1978)
Greene v. Massey 437 U.S. 14, 98 S.Ct. 2151, 57 L.Ed. 2d 15 (1978)
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Jackson v. Virginia 443 U.S. 307, 99 S.Ct. 2781, 61 L.Ed. 2d 560 (1979)
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Hines v. State 75 S.W.3d 444, 447 (Tex. Crim. App. 2002)
Mason v. State 905 S.W.2d 570, 575 (Tex. Crim. App. 1995)
Tex. Penal Code Sec. 9.31 (Vernon Pamph. 2020)
Tex. Penal Code Sec. 19.02(b)(1) and (2) (Vernon Pamph. 2020)
Tex. Penal Code Sec. 20.04 (Vernon Pamph. 2020)

Appendix C

Tex R. App P. Ann. 9.4(Li)2(D) and (3) (Vernon Pamph 2020)

Tex R. App P. Ann 38.1 (a) (Vernon Pamph 2020)

Tex R. App P. Ann 106.3(a), (c) and (f) (Vernon Pamph 2020)

Tex R. App P. 68 (Vernon Pamphlet 2020)

Tex R. App P. 69.1 (Vernon Pamphlet 2020).

STATEMENT OF THE CASE

This writ of Certiorari lies from Appellant's Conviction in ~~BRYANT~~ CHRISTOPHER WATTS v THE STATE OF TEXAS Cause No. 1503254 in The 179th Judicial District Court, Harris County, Texas. The record reflects that the Defendant pled "NOT GUILTY" to Murder and Proceeded to a Jury Trial. On October 3, 2019 the Jury found the Appellant guilty and Sentenced him to 50 years T.D CJ Institutional Division. Notice of Appeal was filed on October 4, 2019. Appellant's Counsel was appointed (Sharon Slovis) on October 14, 2019.

Appellant's Brief on Direct Appeal was filed with First District Court of Appeals on January 27, 2020. Appellant's Amended Brief was filed on January 31, 2020. First District Court of Appeals affirmed Appellant's Conviction on October 22, 2020.

Appellant's Petition For Discretionary Review was filed in Court of Criminal Appeals on October 29, 2020. Despite the fact the Court of Criminal Appeals REFUSED Appellant's Petition For Discretionary Review on December 9, 2020 Appellant was never informed until Appellant wrote the Court of Criminal Appeals a letter requesting a docket sheet and the status of Appellant's Petition for Discretionary Review on March 28, 2021. April 23, 2021 Appellant recieved a letter and docket sheet dated April 12, 2021 from the Court of Criminal Appeals revealing Appellant's Petition for Discretionary Review was REFUSED on December 9, 2020.

Upon receiving information of the disposition of Appellants PDR Appellant filed a "Motion For Rehearing" with the Court of Criminal Appeals. On May 13, 2021 Appellant's "Motion For Rehearing" was Denied as untimely.

On June 3, 2021 Appellant filed a letter with Supreme Court of the United States explaining the above mentioned facts requesting

issuance of certiorari. The Supreme Court of The United States
received said letter on June 16, 2021 and ORDERED Appellant to
file corrected petition within 60 days from June 16, 2021.

REASONS FOR GRANTING THE PETITION

This Court should grant the petition on the grounds that:

1) the Justices of the Court of Appeals have disagreed on a material question of law; 2) the Court of Appeals has allowed the trial Court to enforce a law that has abridged the privileges or immunities of a citizen of the United States that has deprived Appellant of life, liberty, and property without due process of law and denied Appellant equal protection of the laws. (U.S. Con Amend. XIV Sec. 1) 3) the Court of Appeals has so far departed from the accepted and usual course of judicial proceedings, or sanctioned such a departure by a lower court, as to call for an exercise of this Court's supervisory power. (Supreme Court Rule 10(a))

DID THE COURT OF APPEALS ERR IN AFFIRMING THE TRIAL COURT WHERE EVIDENCE IS INSUFFICIENT TO REBUT THE AFFIRMATIVE DEFENSE OF SELF DEFENSE BEYOND A REASONABLE DOUBT?

1. Record reflects through corroborative testimony Appellant requested three or four times before shooting complainant to be let out vehicle. This is evidence supporting and proving that Appellant was victim of kidnapping. Abduction for purposes of kidnapping offense does not require does not require that victim be held for certain length of time. (See *Ontiveros v. State* 890 S.W.2d 919, 930; *Sanders v. State* 605 S.W2d 612, 614) Abduction "Abduct" within meaning of kidnapping statute means to restrain a person with intent to prevent his liberation by either:
(1) Secreting or holding him in a place where he is not likely to be found, or threatening to use deadly force. (Citing *Mason v. State*

905 SW2d 570, 574-575 (Tex. CRIM APP 1995), V.T.C.A. Penal Code Section 20.01(2)) "Nothing in the Texas [Kidnapping] Statute even suggest that it is necessary for the state to prove that a defendant moved his victim a certain distance, or that he held him a specific length of time before he can be found guilty of kidnapping. In fact, we have held under the kidnapping Statute there is no specific time requirement for determining whether a restraint has taken place. See *Hines v State*, 75 SW.3d 444, 447-448 (Tex crim App 2002)

2. Record reflects Complainant was armed with a deadly weapon; Record reflects Appellant was aware Complainant was armed with a deadly weapon; Record reflects Dr. Milton's expert testimony was corroborative of Appellant's brother Aaron Jones' testimony Complainant was turning in driver seat chair as Complainant reached for deadly weapon before Appellant shot Complainant. Self-Defense is presumed
- to be Reasonable if the actor knew or had reason to believe that the person against whom force was used was committing or attempting to commit Aggravated Kidnapping, Murder, Sexual Assault, Aggravated Sexual Assault, Robbery, or Aggravated Robbery. See Tex Penal Code Sec. 9.31 Self-Defense (Vernon Pamph 2020) A person may resort to self-defense if he reasonably believes that he is in imminent danger of death or great bodily harm, thus necessitating an in-kind response. See *United States v Toledo* 739 F.3d 562, 567 (10th Circuit 2014), *United States v Visinaiz* 428 F.3d 1300, 1311 (10th Cir. 2005), *United States v Greschner* 802 F.2d 373, 384 (10th Cir. 1986)

Self-Defense only requires the Defendant's reasonable belief that deadly force was necessary, not that he exercise a duty to retreat or recognize the unavailability of alternatives. See *United States v Toledo* 739 F.3d at 568 (10th Cir 2014), *United States v Visinaiz* 428 F.3d at 1311 (10th Cir) *United States v Greschner* 802 F.2d at 384 (10th Cir) In most Federal Prosecutions, defendant bears the burden of production on the defense of Self-defense. Once that burden is met the government bears the burden of persuasion and must negate self-defense beyond a reasonable doubt. *United States v Branch* 91 F.3d 699, 714 (5th Circuit 1996)

3) In respect to the legality of the United States Constitution, Federal, State, and Case law the the Court of Appeals has deprived Appellant of liberty pursuant to United States Constitution Amendment ~~XIV~~ Section 1 by affirming trial courts conviction of Appellant. Corroborative eye-witness and expert witness testimony was sufficient to raise enough evidence to require a jury instruction on self-defense without a mere scintilla of persuasion from the State to the issue of malice. Without the presence of malice, and the evidence presented being reflective of Appellant being victim of Aggravated Kidnapping a crime punishable by State and Federal imprisonment there is no way a rational finder of facts could have found the essential elements of Murder beyond a reasonable doubt. For these facts the evidence in this conviction is legally insufficient pursuant to *Jackson v Virginia* 443 US 307, 61 L. Ed 2d 560, 99 S. Ct. 2781 violating Appellant's ~~XIV~~ Amendment Due Process rights as a citizen of The United States of America.

IS IT UNCONSTITUTIONAL FOR HIGHER STATE COURTS TO REFUSE TO REVIEW CASES OF AFFIRMATIVE DEFENSE THAT WERE AFFIRMED ON DIRECT APPEAL ?

Although the Prosecution bears the burden of Proving each of the Statutory elements of a charged Offense, the State may shift the burden of Proving affirmative defenses to the defendant. See Geo. L.J. Ann Rev. Crim Proc. 2084 (2017) This automatically puts a defendant at a disadvantage due to the assumption of guilt simply from being charged with a crime, especially when a trier of fact is allowed to dismiss and disbelieve any evidence it wishes. (See Canfield v State 429 SW3d 54) In return a local appeals Court in the same County of conviction may turn a blind eye to an improper verdict knowing its not likely their apathetic gesture will likely be overlooked or not found by Higher State Courts for the fact Higher Court Review is discretionary. Especially for the fact Affirmative Defenses are only allowed when evidence exist to receive Jury instruction for Said Defense an AUTOMATIC REVIEW will preserve the integrity of the XIV Amendment Due Process rights of Persons in State and Federal trials and appellate court proceedings.

WHAT IS PETITIONER REQUEST THE UNITED STATES SUPREME COURT DO REGARDING WRIT OF CERTIORARI IN THE MATTER OF BRYANT CHRISTOPHER WATTS, Appellant v THE STATE OF TEXAS, Appellee ?

PETITIONER request THE UNITED STATES SUPREME COURT issue THE COURT OF CRIMINAL APPEALS OF AUSTIN, TEXAS an ORDER of AQUITTAL based on Standards Pursuant to Jackson v Virginia 44 S.Ct 2791.

CONCLUSION

The petition for writ of certiorari should be granted.

Respectfully submitted,

Bryant C. White

7-26-2021