

21-6957

ORIGINAL

No. \_\_\_\_\_

Supreme Court, U.S.  
FILED

SEP 08 2021

OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

\_\_\_\_\_  
David Kent Thacker, Jr. — PETITIONER  
(Your Name)

vs.

\_\_\_\_\_  
Bobby Lumpkin, Dir. — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

3rd CoA at Austin, TX by way of  
5th Circuit U.S. Court of Appeals

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

PETITION FOR WRIT OF CERTIORARI

\_\_\_\_\_  
David Kent Thacker, Jr.  
(Your Name)

\_\_\_\_\_  
59 Darrington Road  
(Address)

\_\_\_\_\_  
Rosharon, Texas, 77583  
(City, State, Zip Code)

\_\_\_\_\_  
(Phone Number)

## QUESTION(S) PRESENTED

1) whether *MIRANDA* is part of the 5<sup>th</sup> Amendments protection; or in this particular scenario (pretrial assertions) must it have been asserted by way of the 4<sup>th</sup> Amendments *EXCLUSIONARY RULE*, to suppress statements in violation of well settled principles of the *Self-Incriminating* clause by use of state and federal reliances. See APPENDIX A-AZ

ORAL ARGUMENT REQUESTED

2) whether a pecuniary interest, in such alleged 5<sup>th</sup> Amendment DWI Investigations allow SCOTUS intervention; as § 1983 violations must be asserted at the onset of judicial proceedings regarding illicit statements. See APPENDIX D-Enforcement with pretrial writ; also see APPENDIX F pecuniary gain;

Note: APPENDIX F2 has the controlling diagnosis refused to be presented to the JURY at TRIAL

ORAL ARGUMENT REQUESTED

3) Did petitioner amply state on the record the controlling *Miranda* claim? SEE APPENDIX A-AZ; also APPENDIX D.

ORAL ARGUMENT REQUESTED

4) whether the Constitutional Amendments apply to those with continuing physical and mental disabilities where the assertion is a confession to all or part of an alleged crime in DWI Investigations. SEE APPENDIX F2 diagnosis after Trial.

ORAL ARGUMENT REQUESTED

5) whether *INDIGENCY* is still a barrier in todays evolving standard of decency regarding appeal process as is alleged in *ENHANCED* DWI prosecutions. PLEASE VIEW APPENDIX COLLECTIVELY.

ORAL ARGUMENT REQUESTED

## 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

- *In re David Thacker*, No. 03-14-00118 CV Filed April 11, 2014
- THACKER v. Holder, No 5:13-cv-01159 FB
- THACKER v. Lumpkin, Dir. U.S.D.C. 5:20-cv-201
- THACKER v. New Braunfels Pol. Dept., 5:13-cv-01160-OLG
- Thacker v. Davis, No A-16-cv-880-LY 8/24/16

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APPENDIX C STATE COURT OF LAST RESORT (STATE)

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APPENDIX E, E1A, E1B 5th Circuit Court of Appeals (writs) [relates back]

APPENDIX F, F1, F2 F- 42 § 1983 alleging 5th Amends. violation  
F1- Judgment of Fed. Court § 2254

APPENDIX G F2- Diagnosis suppressed

First § 2254 Have sister Application 4:20-cv-1237

APPENDIX H State's opposition motion

## **TABLE OF AUTHORITIES CITED**

**CASES**

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**STATUTES AND RULES**

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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 F-6 to the petition and is

☒ reported at THACKER V. LUMPKIN 20:50846 ~~20~~ 20 50816; 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 F to the petition and is

☒ reported at THACKER V. LUMPKIN 5:20-CA-0201-JKP; 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 A to the petition and is

☐ reported at THACKER V. STATE 03-15-00079 CR 03-14-00118 CV; 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 4/6/21.

[ ] 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: 4/13/21, and a copy of the order denying rehearing appears at Appendix E.

[ ] 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).

[x] For cases from state courts:

The date on which the highest state court decided my case was 9/27/2017.  
A copy of that decision appears at Appendix C.

[ ] 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

First Amendment - suppressed, to the regard of hybrid representation  
other jurisdictions allow hybrid representation

4<sup>th</sup> Amendment - the Exclusionary rule which was said to be unavailable

5<sup>th</sup> Amendment - confession without admonishments

6<sup>th</sup> Amendment - police continue even though asserted right to counsel

7<sup>th</sup> Amendment - suits in equity in excess of \$20

8<sup>th</sup> Amendment - cruel and unusual punishment, 8 years confinement due to disability

10<sup>th</sup> Amendment -

MIRANDA

18 U.S.C. § 3501, § 3504

Constitutional Law @ 266

Texas Confession Statute, Code of Criminal Procedures Arts. 38.22, 38.23

42 U.S.C. § 1983

28 U.S.C. § 2253(c)

NOTE: these are in conjunction with all available  
reliances



## STATEMENT OF THE CASE

This is an appeal from a final conviction of DWI.

Indigency and disability have caused problems in the appeal. After being found asleep, police learning of priors by dispatch led to a violation of petitioners' rights in the SELF INCRIMINATION CLAUSE of the 5<sup>th</sup> Amendment, creating the appeal standard requirement.

Petitioner in excruciating pain answered questions, when clearly in distress, of "how much have you had to drink"; twice over; and various other admissions that even state caselaw says is a violation.

While undergoing atrophy in limbs, assigned counsel ran with appeal without discussion in strategy. Same as at trial, the appointed counsel. In this particular case, it is claimed a confession took place. However there were no statutory or constitutional observations made regarding these statements.

Then, the direct appeals court affirmed, the undertaking of *Miranda* or the equivalent was ruled out and unpublished opinions permeate the appeal.

In a civil rights claim, a senior U.S. Justice ruled absolute immunity to all involved. However, the Supreme Court has decided cases differently and now is asserted to have the continuing jurisdiction as petitioner stated at the onset before trial. Counsel for the disabled petitioner has been refused.

Now, petitioner advances that the state is opening his legal mail outside his presence and even holding this legal mail so that the appeal timeframes are unintentionally violated. Thus, continuing or perpetual testimony can show the interference of the state.

In this appeal, the record has been withheld and not available to cite from so the petitioner relies on memory, however, was heavily medicated thus causing a serious definitive deficiency in the appeal as of right. And now the collateral proceedings.

This case is unique as pretrial or hybrid representation has been ruled out. The sister jurisdictions allow hybrid representation. With these distinct ramifications this unconstitutional confinement should be reviewed and indigency and disability should be mitigated for relief.

## REASONS FOR GRANTING THE PETITION

To be brief, a violation of the rights known to all, should not be taken lightly. A serious effort to follow procedure was asserted until petitioner lost the battle with his disability.

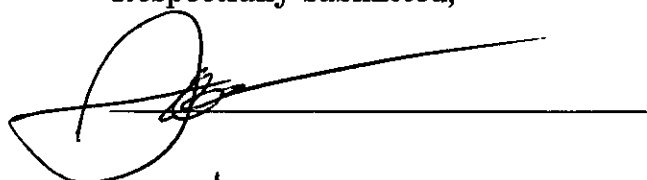
Next, confessions require a strictness to procedural correctness, so the grant of this particular petition is not solely to the petitioner, but, to those with any disability, regarding what is said to law enforcement.

Petitioner believes the overall value of the Constitution should win out. To be suppressed by indigency and disability should be known. Without the oversight of a quorum people with verified disabilities won't be protected. In petitioners' mind, the state of the union has advanced these concerns and the platform is available to someone of I.Q., but a ~~tax~~ problem in numerology has overshadowed this particular appeal. To not be heard because of verified deficiencies would affect the public at large.

## CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

A handwritten signature in black ink, consisting of a large, stylized 'J' or 'L' shape with a horizontal line extending to the right, crossing over the signature.

Date: AMENDED January 13, 2022