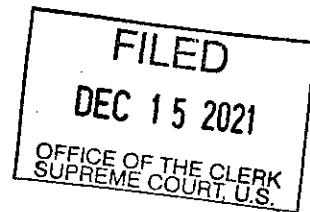


No. 21-7501

original
ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES

HELEN TYNE MAYFIELD--PETITIONER



Vs.

STATE OF TEXAS-----RESPONDENT

ON PETITION FOR A WRIT OF CERTIORARI ~~TO COM~~

THE TEXAS COURT OF CRIMINAL APPEALS FROM THE 361ST DISTRICT COURT IN
BRAZOS COUNTY, TEXAS

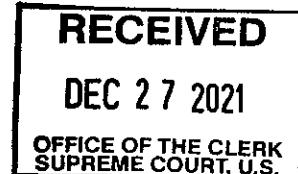
PETITION FOR WRIT OF CERTIORARI

HELEN TYNE MAYFIELD, IN PRO PER

P. O. BOX 37165

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QUESTIONS PRESENTED

1. WHEN PETITION FOR DISCRETIONARY REVIEW IS DISCRETIONARY BY THE TEXAS COURT OF CRIMINAL APPEALS, DID THE COURT ABUSE ITS DISCRETION IN NOT REVIEWING A PETITION FOR DISCRETIONARY REVIEW AND WRIT OF HABEAS CORPUS FOR MOTION FOR NEW TRIAL WHERE MORE THAN 300 POINTS OF ERROR HAD ALREADY BEEN PRESENTED INCLUDING NO INDIGENT RECORD PROVIDED IN WHICH THE PETITIOER /DEFENDANT AND HER ATTORNEY HAD NOT BEEN PRESENT AT ANY PORTION THREE OF THE JURY TRIALS?
2. AFTER 1981, WHEN VERNON'S WAS AMENDED ANN. TEXAS CCP ART. 42.03 WAS AMENDED WHICH STATED THAT "EXCEPT AS PROVIDED BY ARTICLE 42.14 SENTENCE SHALL BE PRONOUNCED IN THE DEFENDANT'S PRESENCE. PETITIONER WAS NEVER SERVED WITH THE INDICTMENT, MAGISTRATED, PARTICIPATE IN ANY PORTION OF THE TRIAL INCLUDING BEING PRESENT AT THE SENTENCING; WAS THIS STATUTE INCONSISTENT WITH THE CONSTITUTIONAL PROTECTION GUARANTEED BY THE FOURTEENTH AMENDMENT OF THE UNITED STATES CONSTITUTION AND PRIOR RULINGS OF THIS COURT? DID THE ABSENCE OF THE ATTORNEY AND THE DEFENDANT AT ALL PORTIONS OF THE TRIAL VIOLATE THE EQUAL PROTECTION AND DUE PROCESS CLAUSE OF THE FOURTEENTH AMENDMENT AND SIXTH AMENDMENT OF RIGHT TO BE REPRESENTED BY COUNSEL OF THE UNITED STATES CONSTITUTION?
3. DID THE PRONOUNCEMENT OF SENTENCE BASED ON FOUR INDICTMENTS WITHOUT NOTICE TO THE DEFENDANT DEPRIVE THE 10TH COURT OF APPEALS OF JURISDICTION OVER DEFENDANT'S APPEALS AS WELL AS VIOLATE THE EQUAL PROTECTION AD DUE PROCESS CLAUSE OF THE 14TH AMENDMENT OF THE UNITED STATES CONSTITUTION?

In Small v State, 38 S.W. 798, 799 (Tex. Crim. App. 1897 where there was a two count judgment but no written judgment or oral rendition of the punishment. The court ruled that there was nothing to appeal. In 1981, the statute was amended. The trial court can correct the error below and abate for a new trial on sentencing. The problem is that with trials in abstentia, there is no trial to correct.

4. DOES THE TRIAL, CONVICTION AND SENTENCING OF THE DEFENDANT IN ABSTENTIA BASED ON FOUR INDICTMENTS WITHOUT INFORMING THE DEFENDANT; DEPRIVE THE PETITIONER OF EQUAL PROTECTION AND DUE PROCESS GUARANTEED BY THE 14TH AMENDMENT OF THE UNITED STATES CONSTITUTION AND VIOLATE HER FIFTH AMENDMENT DUE PROCESS RIGHT TO LIBERTY AND TO EARN A LIVING?

In Norbert and Pape v the State of Texas, 626 S.W. 2d 30 (1981), the court held that under Article 36.01, V.A.C.C.P. prescribes the order of things in a jury trial. Items 1 and 2 in pertinent part: 1. The indictment ...shall be read to the jury by the attorney prosecuting... 2. ... if the plea of not guilty is not relied upon it shall also be stated.

Moreover, "the pleading in a criminal action on the part of the State is the indictment..." Article 27.01, V.A.C.C.P. and included in pleading and motions available to the accused is a plea of not guilty, Article 27.02 (4).

V.A.C.C.P. The essential point is that until the indictment is read and a plea

is entered the issue is not joined between the State and the accused before the jury. Johnson v. State, 118 Tex. Cr. R. 291, 42 S.W.2d 782 (1931). In Castillo v. State, 530 S.W.2d 952 (Tex. Cr. App. 1976), the court after some examination concluded that "the order of proceeding s set out in Art. 36.01, V.A.C.C.P. is and must be followed by the trial court. In the case in question with jury trials in abstentia the issue is never joined because the defendant is never served with the indictment and has no knowledge of it. The plaintiff was deprived of a law license and did not have notice and hearing and a Sixth Amendment right of confrontation guaranteed by the U.S. Constitution.

5. DID THE TEXAS COURT OF CRIMINAL APPEALS ERR IN DENYING THE PETITIONER AN OUT OF TIME HEARING ON HER PETITION FOR DISCRETIONARY REVIEW AND IN THE ALTERNATIVE/ WRIT OF HABEAS FOR MOTION FOR NEW TRIAL IN VIOLATION OF HER 5TH AMENDMENT RIGHT NOT TO BE DEPRIVED OF HER RIGHT AND OPPORTUNITY TO MAKE A LIVING?
6. DID THE 10TH COURT OF APPEALS ERR IN DENYING APPLICANT'S MOTION TO REFER THE CASE BACK TO THE TRIAL COURT TO CORRECT DISCREPANCIES IN THE RECORD, IN COMPLETING THE RECORD WITHOUT INVOLVING THE DEFENDANT AND HER ATTORNEY AND RULING ON AN INCOMPLETE RECORD IN VIOLATION OF HER SIXTH AMENDMENT RIGHT OF CONFRONTATION AND EQUAL PROTECTION AND DUE PROCESS RIGHT GUARANTEED BY THE FOURTEENTH AMENDMENT OF THE UNITED STATES CONSTITUTION OF THE UNITED STATES?

It has been thirteen years and defendant has never been provided with a trial transcript complete enough to complete all of her issues. The Texas Rules of Appellate Procedure 38 (e)inaccuracies 2 (B) allows inaccuracies to be referred back to the trial court for correction. Appellant filed such a Motion which was denied as Moot and the 10th Court of Appeals completed the trial transcript without involving the defendant. At issue is the question of whether completion by exclusion of the defendant violated her Sixth Amendment Right of Confrontation and the Equal Protection and Due Process Clause of the 14th Amendment of the United States Constitution? Appellant argues "Yes". Appellant has been deprived of her livelihood and her liberty without due process of law in violation of the liberty and due process clause of the 5th Amendment of the United States Constitution.

7. WHEN THE TRIAL COURT RULED THAT THE PETITIONER /DEFENDANT WAS INDIGENT AND ENTITLED TO A FREE TRANSCRIPT FOR APPEAL; INDIGENT WAS NEVER PROVIDED WITH A FREE TRANSCRIPT COMPLETE ENOUGH TO APPEAL ALL OF HER ISSUES FOR THE TRIAL THAT SHE PARTICIPATED IN; DID THE DENIAL OF THE RECORD VIOLATE THE FIFTH AND 14TH AMENDMENT DUE PROCESS CLAUSES OF THE UNITED STATES CONSTITUTION?

Mayfield has never been given a trial transcript complete enough to appeal all her issues. Mayfield's initial appeal brief was struck because she was incarcerated and filed a hundred thirty four page brief. She was told that the brief had to be reduced to fifty pages in ten days. She was not allowed to brief all the issues and was told that she must prioritize and make a selection. When she filed a Writ of Habeas Corpus, she was told that she had been given her one bite and she could not address issues not raised on her original appeal. Defendants are in a catch 22. In Long v District Court of Iowa, the U.S. Supreme Court held that to deny an indigent a trial transcript to sue for his liberty was a violation of due process and the conviction must be reversed. Brit v. North Carolina , 404 U.S. 226(1971), Billy v. State, 605 S. W. 2d 558 (1980). Here, per the court reporters, the complete transcript was never transcribed. There is no record to support any conviction. The pretrial and posttrial hearings were never recorded and transcribed. The first day of the trial was not recorded and transcribed. At issue is whether State failing to record the trial and

not informing appellant of this failure deprived her of her right to obtain a transcript with her own court reporter.

8. SINCE THE EARLY EIGHTIES, TEXAS HAS BEEN CONDUCTING JURY TRIALS IN ABSTENTIA WITHOUT WAIVERS OF JURY TRIALS BY THE DEFENDANTS AND DID SO WITH APPELLANT/DEFENDANT. DO THESE JURY TRIALS IN ABSTENTIA VIOLATE THE 14TH, SEVENTH, AND SIXTH AMENDMENT OF THE UNITED STATES CONSTITUTION?
9. WHEN APPELLANT WAS NOT SERVED AND DID NOT ENTER A PLEA IN THE FOUR INDICTMENTS; IS THE CONVICTION VALID? WHEN THE READING OF THE INDICTMENT AND THE PLEA OF THE DEFENDANT ARE NOT READ TOGETHER; DOES THE CONVICTION VIOLATE THE EQUAL PROTECTION AND DUE PROCESS CLAUSE OF THE FOURTEENTH AMENDMENT?
10. WHEN APPELLANT WAS LEAD COUNSEL IN HER OWN CASE AND WAS NOT ALLOWED TO MAKE A CLOSING ARGUMENT, DID THIS DENIAL CONSTITUTE INAFFECTIVE ASSISTANCE OF COUNSEL.?
11. DID THE COURT OF APPEALS ERR AS TO THE LAW WHEN IT RULED THAT MALA EN SE CRIMES DO NOT REQUIRE A MENS REA. DID THE FAILURE OF THE PROSECUTION TO PROVE KNOWLEDGE AND INTENT VIOLATE THE EQUAL PROTECTION AND DUE PROCESS CLAUSE OF THE 14TH AMENDMENT AS ALL ELEMENTS ARE NOT PROVEN BEYOND A REASONABLE DOUBT.

LIST OF PARTIES

A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

Helen Tyne Mayfield, Petitioner/defendant
P.O. Box 37165
Houston, Texas 77237

The State of Texas

Jarvis Parsons, District Attorney
Brazos County
300 E. 26th St.,
Bryan, Texas 77803

RELATED CASES AND STATUTES

Aguilar v. Texas, 378 U.S.108(1964)
Barnes v. Texas, 380 U.S. 253(1965).
Barton v State v. State, 361 S.W.2d 716 (Tex. Crim. App. 1962)
Cartwright v. State, 605S.W. 2d 287 (Tex. Crim. App. 1980)
Colt v State, 808 S.W.2d 473 (Tex. Cr. App. 1991)
Espinosa v. State, 853 S.W.2d 36 (Tex. Crim. App. 1993)
Ex Parte Briseno, 135 S.W.3d 1(Tex Crim. App. 2004)
Ex Parte Elizondo, 947 S.W. 2d 202 (Tex Crim. App. 1996)
Herrera v Collins, 506 U.S.390 (1993)
Holmes v Court of Appeals, 885 S.W.2d 389(Tex. Cr. App. 1994)
In re Winship, 397 U.S. 358(1970)
Jackson v. Virginia, 443 U.S 307 (1979)

The State of Texas v. Marroquin, 253 S.W.3d 783 (2007).

Mizell v. State, 119 S. W. 3d 804 (Tex Crim App. 2007)

Robinson v. California, 370 U.S. 660 (1962)

Schlup v. Delo, 513 U.S.298 (1995)

GEORGE W. DIX & ROBERT DAWSON, TEXAS PRACTICE CRIMINAL

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Art. 27.01, V.A.C.C.P.....
Art. 36.01, V.A.C.C.P.....
TEXAS CCP ART. 42.03.....
Texas Banking Code Ann. Sec. 3.415(e).....
Texas Code of Criminal Procedure Ann. Art. 42.03 and 42.14.....
Texas Rule of Appellate Procedure 38 (e),2 (B).....
Texas Rule of Appellate Procedure 50.....

OTHER

The Fifth Amendment Right to liberty and to earn a living in one's chosen profession

The Sixth Amendment Right to counsel

The Seventh Amendment Right to jury trial

The Equal Protection and Due Process of the Fourteenth Amendment

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 and is unpublished.

JURISDICTION

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Fifth Amendment Right to liberty and to earn a living in one's chosen profession

The Sixth Amendment Right to counsel

The Seventh Amendment Right to jury trial

The Equal Protection and Due Process of the Fourteenth Amendment

Texas Rule of Appellate Procedure 50

Texas Code of Criminal Procedure Ann. Art. 42.03 and 42.14

Texas Banking Code Ann. Sec. 3.415(e)

STATEMENT OF THE CASE

This is an appeal of a case that has been here before and was denied certiorari.

Appellant was convicted of 12 counts of forgery of a financial instrument and sentenced to the maximum 24 months in State Jail and was incarcerated for thirty one and a half month when her Writ of Habeas Corpus was denied. New evidence has arisen warranting a new trial and the District Clerk has re-hired staff who forge and alter documents to defeat appeals. Appellant filed a Writ of Habeas Corpus in 2017 and the District Attorney and the staff person altered her application. Appellant's Motion to change venue and to Recuse the trial judge were denied. Appellant had a copy of the check for \$3000.00 written on her account in Houston with the name of the trial judge. The check was written before the search and seizure of her home. Appellant applied to the Texas Court of Criminal Appeals to file a out of time Petition for Discretionary Review because of tampering with her original Petition for Discretionary Review which was denied. The basis for the Motion was the obtaining of a Memorandum Opinion from the 10th Court of Appeals dated October 29, 2008 stating that Mayfield had been indicted after conviction and the new indictment had letters instead of numbers. Exhibit 1. The Memorandum Opinion was never served on Mayfield and she did not learn of it's existence until June 24, 2021. The State Bar of Texas

used this new indictment for disbarment and did not serve Mayfield or let her know of the change so that she might appeal. The Motion for Petitionary Review based on newly discovered evidence was filed on August 24, 2021 and denied on August 24, 2021. The Motion for Rehearing was filed on September 16, 2021 and denied on September 16, 2021.

As stated before, Petitioner was convicted of 12 counts of forgery of a financial instrument on July 25, 2008. She was sentenced to 24 months in state jail to be served concurrently on July 29, 2008. Petitioner actually served thirty one and a half months when the Texas Court of Criminal Appeals denied her Writ of Habeas Corpus when the twenty four months had been served. Her Motion for Probation was denied. She represented herself as she was a licensed attorney and Social Worker at the time. The police had seized approximately fifty six thousand plus in checks and receivables from her townhouse in the form of a loan payment that her bank had certified as good after two days for forty thousand dollars, a certified check from Comerica Bank that Appellant brought with her from Michigan when she moved to Texas in 2002, a silver collection worth approximately twelve thousand dollars and her court appointed receivables from her court work with various counties, all of her State Bar Records from Michigan, Texas and Illinois without a court order as required by law. All of her tax records

since 1968, student loan records and receipts, timeshare records and receipts in Greensprings, Virginia and her mortgage in Michigan from 1978 also were seized as well as personal and business records and receipts. Lt. James Arnold gave sworn testimony on the record that Mayfield had been the target of many warrantless searches and seizures "in order to obtain enough evidence to support a warrant." He stated that the FBI had provided him with a Suspicious Activity Report. The report was unsigned and a forgery per the bank. All records and evidence admitted into the trial were from the search and subsequent warrantless searches by the police.

Mayfield appealed the conviction to the 10th Court of Appeals in Waco, Texas. Her conviction was affirmed despite the fact that there were discrepancies in the record and her Motion to have the record returned to the trial court to correct the discrepancies was denied as moot as the 10th Court of Appeals and the prosecution had completed the record without the defendant being involved. The date of the crime has been altered many times. It has been amended to December 23, 2006 from December 28, 2006 and January 8, 2007 which were the dates read at the trial of petitioner. All of them are impossible dates as the date on the checks was December 4, 2006 and was not altered by the petitioner from that date. Per the Texas Banking Code, Ann. Sec. 3.415(e), all liability for

endorsement was discharged when the checks were not sent to an Article 4 Bank within 30 days per statute. No charges were filed by 1st National Bank until August 15, 2007. Per the State's own witness at trial, the checks had not been presented to American Express for payment as of the day of trial.

REASONS FOR GRANTING THE PETITION

While judicial process is not limitless, the system fails in its primary duty of protecting the innocent and punishing the guilty if we intentionally slam the courthouse doors against one who is, in fact, innocent of wrongdoing. I believe that if the criminal justice system—even when its procedures were fairly followed—reaches a patently inaccurate result which has caused an innocent person to be wrongly imprisoned for a crime he did not commit, the judicial system has an obligation to set things straight. Our criminal justice system makes two promises to its citizens: a fundamentally fair trial and an accurate result. If either of those two promises is not met, the criminal justice system itself falls into disrepute.

The State of Texas since the eighties has had a two or three tier system of record keeping to defeat appeals. Records are routinely destroyed or altered. Documents are removed from records to defeat appeals. Texas has a past history of one hundred executions a year and many incarcerations. Now the State conducts

trials in abstentia when the defendant has not waived his right to a jury trial in criminal matters.

The court should hear this case because jury trials in abstentia deny defendants in Texas Equal Protection and Due Process of law guaranteed by the 14th Amendment of the United States Constitution and tear at the very fabric of our judicial system and our belief in fairness. Unfairness to one affects fairness to all and confidence in the entire system is eroded. While denial of Due Process is individual in my case, it is systemic as it represents how people are treated and their perception of the system. All people should be treated equally and fairly before the law. The expectation should be the same for all persons. The process and procedures should apply the same to all individuals who are charged with a crime. In Texas, this is not the case. Individuals are treated differently based on race, sex, income or status. Injustice costs the judicial system not just in money but in the perception of fairness and the system itself. Texas conducts trials in which people are not given a copy of complaints, indictments, warrants, allowed to see evidence admitted into the record, etc. Texas has written policies codified in the Texas Penal Code and Tex. Code of Criminal Procedure but does not follow any of this in practice. They do not even follow their own Constitution or the

United States Constitution. Someone or a higher court needs to show them that the law should be followed.

The problem with Texas trials is that they have a system designed to evade review and a defendant is never notified of the change in indictment, does not answer the indictment in open court, participate in the trial, is not magistrated and is not present at sentencing. Records may be concealed from defendants despite the Michael Morton Act. Many innocent people are being executed and wrongly incarcerated by these methods and these convictions are evading review. No one should file Writs of Habeas Corpus' with more than three hundred reversible errors and all courts refuse to review the case as has occurred in appellant/defendant's case. At best, this indicates that the defendant probably did not get a fair trial. Texans who are poor, female, brown and Black are not getting fair trials in Texas at this time. Appellant argues that Jury trials in abstentia violate the Sixth Amendment, Seventh Amendment and 5th Amendment right to liberty and to make a living in one's chosen profession and the Equal Protection and Due Process Clause of the 14th Amendment of the United States Constitution. No one should lose their licenses to work and practice their chosen professions as appellant has without appellate review as mandated by statute. The bias of the triers of fact should not go unnoticed as they were not fair and impartial

evidenced by the fact that the trial judge knew and condoned warrantless searches and seizures of Mayfield and her property. The defendant's property was earned through lawful employment as a social worker and lawyer. The judge was active in some type of investigation of Mayfield and wrote a \$3000.00 check on her IOALTA account in Harris County. The trial judge in the 272nd District changed the civil case to a criminal case when appellant filed a \$10,000,000.00 counterclaim for breach of contract, negligent handling, Civil RICO, defamation of character. The judge was the President of the Board of Directors of the 1st National Bank of Bryan and his family owned the bank. There was the appearance of conflict of interest supported by the fact that the employees of the bank filed five different false and fraudulent complaints against the appellant/defendant. Moreover, all dates on the indictments are impossible dates as the checks were in the sole authority and control of the bank at the time of all occurrences. This case and the practices of the Texas Courts will continue to evade review if the Writ of Certiorari is not granted in this case. No system can be absolutely fair but it should have the appearance of impropriety. The Texas judicial system does not and the practice of jury trials in abstentia which deprive individuals of liberty and the right to be employed cries out for review. Defendant has been disbarred and her license removed by a crime that she has never been served with a copy of the

indictment and answered the indictment in open court, been tried and convicted and participated the trial at any stage. This case should be reviewed by a court.

There is a more compelling reason for the court to grant this Writ of Certiorari.

Appellant was the only Black lawyer in this small town. She was targeted and all of her personal, business, law files protected by attorney client privilege were seized. When the standby counsel asked him why she was targeted, the prosecutor replied, "She has been a crook all of her life. She just has not gotten caught. She is Black isn't she?" This was the basis for probable cause for the search—race. The copy of information that I was given after the trial stated that I was in possession of forged documents. I had received documents in the mail from strangers. I did not attempt to do anything with the documents. Moreover, since the IRS did verify that under IRS Code 919, 519 and 901, were a part of the back order payment program, I was legally in possession of the documents. The program was a part of an international trade agreement signed by President Bill Clinton. The Preemption Doctrine Applied. The police should not have arrested me for participating in this program. The police did not have a warrant for my legal files or a court order for my State Bar files as required by statute. The crime was later amended to passing instead of possession. The indictment was defective as Officer Couch swore to the information and a woman used hearsay

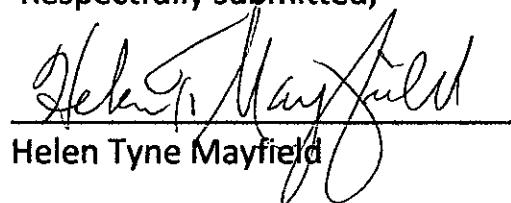
to modify the indictment and complaint in violation of the statute. Who imagines in their wildest dream that someone will send mail to the wrong mailbox and your home will be invaded for the letter and you will be arrested and imprisoned for not destroying the letter. Citizens should have some notion of peace when they are in their home that they will not be subjected to unreasonable searches and seizures and arrested for another person. The worse thing is the living conditions and the threats on my life by these unknown persons who absolutely terrorize me on a daily basis. I have been living a nightmare since I moved to College Station. Nobody should have to live like this. I am being treated like I am a murderer. Something has to give before I die. I always imagined that when my son needed surgery on his aorata that I would be able to help. I could never have imagined this horror story that will never end. Someone must show some grace and mercy.

CONCLUSION

The facts of the case evidenced by the fraudulent concealment of the four indictments by the State and the State Bar of Texas and the prosecutors, and the appellant being denied her mandatory appeal for such convictions cry out for review. Every person accused of a crime should have a right of confrontation and an opportunity to be heard. The petition for a writ of certiorari should be

granted. No one should be denied liberty and an opportunity to work without due process of law.

Respectfully submitted,


Helen Tyne Mayfield

December 15, 2021