

22-5507

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

FILED  
JUL 28 2022

OFFICE OF THE CLERK  
SUPREME COURT U.S.

**ORIGINAL**

IN THE

SUPREME COURT OF THE UNITED STATES

EDWARD F. SWANSON <sup>PROSE</sup> — PETITIONER  
(Your Name)

vs.

COURT OF CRIMINAL APPEALS, TX — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

COURT OF CRIMINAL APPEALS OF TEXAS

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

PETITION FOR WRIT OF CERTIORARI

EDWARD FITZGERALD SWANSON

(Your Name)

JESTER III UNIT 3 JESTER ROAD

(Address)

RICHMOND, TEXAS 77406

(City, State, Zip Code)

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

QUESTION(S) PRESENTED

DID THE... 137<sup>TH</sup> DISTRICT COURT VIOLATE  
THE STRICTURES OF APPRENDI?

CAN A JUDGE DISMISS THE... JURY AFTER  
FINDING THE DEFENDANT GUILTY OF A SECOND  
DEGREE FELONY? THE JURY FOUND HIM GUILTY  
OF 2<sup>ND</sup> DEGREE FELONY ROBBERY. CHARGE

DID THE.. THE JUDGE VIOLATE THE RULES OF  
APPRENDI, 530 U.S. 466 [2000]  
APPRENDI, 536 U.S. 584 [2000]  
BLAKELY VS. WASHINGTON, 542 U.S. 296 [2004]

CAN A TRIAL JUDGE DISMISS A JURY AND  
AND IMPOSE A 50 YEAR PRISON TERM ON A  
STATUTORY MAXIMUM OF 20 YEARS?

DID THE COURT 137<sup>TH</sup> DISTRICT COURT VIOLATE  
THE RULES OF...  
CUNNINGHAM VS. CALIFORNIA, 127 S.C.T. 856 [2007]<sup>3</sup>

DID THE 137<sup>TH</sup> DISTRICT COURT VIOLATE THE  
RULE OF STRICKLAND VS. WASHINGTON, 466 U.S. 668, 694  
[1984]

DID TRIAL ATTORNEY MARVIN WILLIAMS VIOLATE  
THE RULES SET IN STRICKLAND VS. WASHINGTON, 466  
U.S. 668 [1984] (i)

## 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

TEXAS VS. SWANSON NUMBER- 2008-421,735  
JUDGMENT ENTERED... MAY 4, 2022 WR-83,894-03  
COURT OF CRIMINAL APPEALS OF TEXAS. DISMISSED APPLICATION  
SUPREME COURT OF THE UNITED STATES?  
EX PARTE EDWARD FITZGERALD SWANSON IN THE 137<sup>TH</sup>  
DISTRICT COURT OF LUBBOCK COUNTY, TEXAS- CAUSE NO. 2008-  
421,735-C

## TABLE OF CONTENTS

OPINIONS BELOW.....	1
JURISDICTION.....	
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED .....	
STATEMENT OF THE CASE .....	
REASONS FOR GRANTING THE WRIT .....	
CONCLUSION.....	

## INDEX TO APPENDICES

APPENDIX A	TRIAL COURT NO. 2008-421,735(C) WRIT-83,894-03 COURT OF CRIMINAL APPEALS OF TEXAS DENIED WITHOUT WRITTEN ORDER, DISMISSED
APPENDIX B	137 <sup>TH</sup> DISTRICT COURT OF LUBBOCK COUNTY TEXAS. NO EVIDENTIARY HEARING HELD, DENIED
APPENDIX C	DECISION OF TEXAS SUPREME COURT DENYING REVIEW, ON MAY 4, 2022, SUBSEQUENT WRIT
APPENDIX D	ORDER OF TEXAS SUPREME COURT DENYING REHEARING ON MAY 4, 2022, APPLICATION WAS
APPENDIX E	DISMISSED, WITHOUT WRITTEN ORDER SUBSEQUENT WRIT OF HABEAS CORPUS. TEXAS CODE OF CRIMINAL
APPENDIX F	PROCEDURE ANN. ART. 11.07 4 (a). WR-83,894-03

## TABLE OF AUTHORITIES CITED

### CASES

		PAGE NUMBER
APPRENDI VS. NEW JERSEY, 530 U.S. 466 [2000]	2	(i)(i)
APPRENDI VS. NEW JERSEY, 536 U.S. 584 [2000]	2	(i)(i)
BLAKELY VS. WASHINGTON, 542 U.S. 296 [2004]	2	(i)(i)
CUNNINGHAM VS. CALIFORNIA, 127 U.S. 856 [2007]	2	(i)(i)
GLOVER VS. UNITED STATES, 531 U.S. 298 [2001]	2	(i)(i)
STRICKLAND VS. WASHINGTON, 466 U.S. 668 [1984]	2	(i)(i)
SLACK VS. McDANIEL, 529 U.S. 473 [2000]	2	(i)(i)

### STATUTES AND RULES

5<sup>TH</sup> AMENDMENT DUE PROCESS RIGHTS

6<sup>TH</sup> AMENDMENT EFFECTIVE ASSISTANCE OF COUNSEL

6<sup>TH</sup> AMENDMENT IMPARTIAL JUDGE, JURY

14<sup>TH</sup> AMENDMENT DUE PROCESS OF LAWS

14<sup>TH</sup> AMENDMENT EQUAL PROTECTION OF LAWS

ALL STATUTES APPEAR ON PAGE (2)

ALL AUTHORITIES APPEAR ON PAGE (2)

### OTHER

"PROCEDURAL DEFAULT EXCEPTION"

COLEMAN VS. THOMPSON, 501 U.S. 722, 729, 730 [1991]

THE CAUSE" CONSISTED OF THERE BEING NO COUNSEL

DURING THE STATE COLLATERAL REVIEW PROCEEDING.

THE CLAIM OF INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL

WAS A SUBSTANTIAL CLAIM. 2 (i)(i)

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 E to the petition and is

[ ] reported at APPENDIX - E; or,  
[ ] has been designated for publication but is not yet reported; or,  
[ ] is unpublished.

The opinion of the COURT OF CRIMINAL APPEALS court appears at Appendix A to the petition and is

[ ] reported at APPENDIX - A; 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 MAY 4, 2022. A copy of that decision appears at Appendix A.

A timely petition for rehearing was thereafter denied on the following date: MAY 4, 2022, and a copy of the order denying rehearing appears at Appendix A.

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**

[SENTENCING FACTFINDING] [DUE PROCESS OF LAWS]  
APPRENDI VS. NEW JERSEY, 530 U.S. 466 [2000]  
APPRENDI VS. NEW JERSEY, 536 U.S. 584 [2000]

[MAXIMUM SENTENCE DEFINITION]  
BLAKELY VS. WASHINGTON, 542 U.S. 296 [2004]

[PRESUMPTIVE SENTENCES]  
CUNNINGHAM VS. CALIFORNIA, 127 S.CT. 856 [2007]

GLOVER VS. UNITED STATES, 531 U.S. 198 [2001]

SLACK VS. McDANIEL, 529 U.S. 473 [2007]

STRICKLAND VS. WASHINGTON, 466 U.S. 668, 694 [1984]

6<sup>TH</sup> AMENDMENT 14<sup>TH</sup> AMENDMENT EFFECTIVE..

ASSISTANCE OF COUNSEL GUARANTEE.

[CONTRARY TO CLAUSE] STANDARD FOR GRANTING

RELIEF.

WILLIAMS VS. TAYLOR, 529 U.S. 362 [2000]

STATEMENT OF THE CASE

ON MARCH 03, 2009 . . . A PETIT JURY FOUND EDWARD F. SWANSON GUILTY OF 2ND DEGREE ROBBERY! MARCH 3, 2009 JUDGE DAVID GLEASON DISMISSED THE PETIT JURY.

MARCH 04, 2009 JUDGE DAVID GLEASON GLEASON . . . SENTENCED SWANSON TO 50 YEARS IN T.D.C.J. C.I.D . . . THE STATUTORY MAXIMUM FOR 2ND DEGREE ROBBERY IN TEXAS IS 20 YEARS.

THE UNITED STATES SUPREME COURT IN TWO "CONCURRING [OPINIONS] CONCLUDED THAT IT WOULD VIOLATE . . . THE DUE PROCESS CLAUSE TO REMOVE FROM THE JURY THE ASSESSMENT OF FACTS THAT INCREASE THE PRESCRIBED RANGE OF PENALTIES TO WHICH A CRIMINAL DEFENDANT IS EXPOSED. SEE APPRENDI VS. NEW JERSEY, 530 U.S. 466 [2000]

ALSO; APPRENDI VS. NEW JERSEY, 536 U.S. 584 [2000]  
BUT SEE BLAKELY VS. WASHINGTON, 542 U.S. 296 [2004]  
MAXIMUM SENTENCE DEFINITION:  
IN; CUNNINGHAM VS. CALIFORNIA, 127 S.Ct. 856 [2007]

JUDGE DAVID GLEASON OF THE 137<sup>TH</sup> DISTRICT COURT, LUBBOCK COUNTY TEXAS, DECISION OF 50 YEARS IS IN CONFLICT WITH 4 SUPREME COURT PRECEDENTS, 30 YEARS OVER THE STATUTORY MAXIMUM.

REASONS FOR GRANTING THE PETITION

RULE 10 CONFLICT AMONG COURTS) (CONTRARY TO CLAUSE (C) A STATE COURT FROM THE 137<sup>TH</sup> DISTRICT COURT FROM LUBBOCK COUNTY, TEXAS,

CAUSE NUMBER - 2008-421,735

OFFENSE AS REFLECTED IN JUDGMENT ROBBERY

ON MARCH 03, 2009 THE PETIT JURY RETURNED A GUILTY VERDICT FOR 2<sup>ND</sup> DEGREE ROBBERY ...

THAT SAME DAY JUDGE DAVID GLEASON DIS- MISSED, THAT SAME PETIT JURY ON MARCH 03, 2009 THE PETIT JURY DID NOT ASSESS PUNISHMENT ON MARCH 03, 2009.

ON MARCH 04, 2009 JUDGE DAVID GLEASON SENTENCED EDWARD SWANSON TO 50 YEARS IN T.D.C.J. C.I.D., FOR 2<sup>ND</sup> DEGREE ROBBERY

IN APPRENDI VS. NEW JERSEY, 530 U.S. 466 [2000]

IN APPRENDI VS. NEW JERSEY, 536 U.S. 584 [2000]

TWO CONCURRING "OPINIONS" CONCLUDED THAT IT WOULD VIOLATE THE DUE PROCESS CLAUSE TO REMOVE FROM THE JURY... THE ASSESSMENT OF "FACTS" THAT INCREASE THE PRESCRIBED RANGE OF PENALTIES TO WHICH A CRIMINAL DEFENDANT IS EXPOSED. THE VERDICT OF 50 YEARS IS IN CONFLICT WITH 4 SUPREME COURT PRECEDENTS"

## REASONS FOR GRANTING PETITION

RULE 10 (C) RULE (d)(1)'S CONTRARY TO CLAUSE  
THE 137<sup>TH</sup> DISTRICT COURT FROM LUBBOCK COUNTY  
TEXAS.

HAS DECIDED AN IMPORTANT FEDERAL QUESTION  
IN.. A WAY THAT CONFLICTS WITH RELEVANT  
DECISIONS OF THIS COURT.

SEE APPRENDI VS. NEW JERSEY, 530 U.S. 466 [2000]  
APPRENDI VS. NEW JERSEY, 536 U.S. 584 [2000]

ALSO BLAKELY VS. WASHINGTON, 542 U.S. 296 [2004]

ON MARCH 3, 2009 A PETIT JURY FOUND THE  
PETITIONER GUILTY OF 2<sup>ND</sup> DEGREE ROBBERY  
CHARGE. IN CAUSE NO. 2008-421,735

ON THE SAME DATE MARCH 3, 2009 TRIAL JUDGE  
DAVID GLEASON... DISMISSED THE PETIT JURY.

ON MARCH 04, 2009 JUDGE DAVID GLEASON  
SENTENCED EDWARD FITZGERALD SWANSON  
TO 50 YEARS T.D.C.J. C.I.D  
VIOLATING THE RULES SET FORTH IN THE ABOVE  
PRECEDENTS.

IN APPRENDI VS. NEW JERSEY, 530 U.S. 466 [2000]  
APPRENDI VS. NEW JERSEY, 536 U.S. 584 [2000]  
TWO CONCURRING "OPINIONS" CONCLUDED IT  
WOULD "VIOLATE THE DUE PROCESS CLAUSE TO  
REMOVE FROM THE JURY... THE ASSESSMENT OF  
"FACTS" THAT INCREASE THE PRESCRIBED RANGE  
OF PENALTIES TO WHICH A CRIMINAL, DEFENDANT  
IS EXPOSED.

ON MARCH 04, 2009 JUDGE DAVID GLEASON...  
VIOLATED THE STRICTURES OF APPRENDI.  
STATUTORY MAXIMUM FOR 2<sup>ND</sup> DEGREE ROBBERY IN  
TEXAS IS 20 YEARS IMPRISONMENT.

APPRENDI VS. NEW JERSEY, 530 U.S. 466 [2000]  
JUSTICE STEVENS DELIVERED THE OPINION OF  
THE COURT. THE COURT "HELD"

(1) ANY FACT.. THAT INCREASES THE PENALTY FOR  
A CRIME BEYOND A.. REASONABLE STATUTORY  
MAXIMUM... MUST BE SUBMITTED TO A JURY  
A PROVED BEYOND A REASONABLE DOUBT.  
WITH THAT EXCEPTION WE ENDORSE THE  
STATEMENT OF THE RULE SET FORTH IN THE  
"CONCURRING" "OPINIONS" IN THAT CASE.'

IN APPRENDI VS. NEW JERSEY, 530 U.S. 466  
(2000)

THE SUPREME COURT OF THE UNITED STATES  
INVALIDATED THE NEW JERSEY STATUTORY  
SCHEME THAT ALLOWED A JURY TO CONVICT  
A DEFENDANT OF SECOND.. DEGREE OFFENSE BASED  
ON ITS FINDING BEYOND A REASONABLE DOUBT.

THE NEW JERSEY STATUTORY SCHEME THEN ALLOWED  
A JUDGE IN.. A SEPARATE PROCEEDING ALLOWED  
A JUDGE TO.. IMPOSE PUNISHMENT.. IDENTICAL  
TO.. THAT NEW JERSEY PROVIDES FOR CRIMES OF  
THE "FIRST DEGREE" BASED UPON THE JUDGE'S  
FINDING BY A "PREPONDERANCE OF THE EVIDENCE."

ON MAY 04, 2009 JUDGE DAVID GLEASON VIOLATED  
THE RULES SET FORTH IN APPRENDI'S CONCURRING  
OPINIONS.

(2) THE COURT "HELD" IN APPRENDI IT.. IS  
UNCONSTITUTIONAL FOR A.. LEGISLATURE  
TO REMOVE FROM THE JURY.. THE ASSESSMENT  
OF FACTS THAT.. INCREASE.. THE PRESCRIBED  
RANGE OF PENALTIES TO WHICH A CRIMINAL  
DEFENDANT IS.. EXPOSED.. IT.. IS EQUALLY CLEAR  
THAT SUCH FACTS MUST BE ESTABLISHED BY PROOF  
BEYOND A REASONABLE DOUBT.

IN CAUSE NO. 2008-421,735 (A)(B)(C)

THIS CASE HAS NEVER BEEN ADJUDICATED ON THE MERITS. SEE SLACK VS. McDANIEL, 529 U.S. 473 (2000). A HABEAS CORPUS PETITION FILED AFTER AN EARLIER SUCH PETITION WAS DISMISSED WITHOUT ADJUDICATION ON THE MERITS BECAUSE OF... A FAILURE TO EXHAUST STATE REMEDIES IS... NOT A "SECOND OR SUCCESSIVE" WRIT/PETITION  
SLACK VS. McDANIEL, 529 U.S. 473 (2000)

PETITIONER EDWARD F. SWANSON HAS PREVIOUSLY FILED TWO WRIT APPLICATIONS" ARTICLE 11.07'S CHALLENGING THIS CONVICTION.

APPLICANT'S FIRST WRIT APPLICATION WAS DENIED WITHOUT WRITTEN ORDER ON NOVEMBER 04, 2021. EX PARTE EDWARD F. SWANSON, PRO SE

APPLICANT'S SECOND WRIT APPLICATION WAS ALSO DENIED WITHOUT WRITTEN ORDER ON OCTOBER 13, 2021. PRO SE

APPLICANT'S THIRD WRIT APPLICATION WAS DISMISSED WITHOUT WRITTER ORDER FOR BEING A SUBSEQUENT APPLICATION FOR A WRIT OF HABEAS CORPUS. TEXAS CRIMINAL PROC. ART. 11.07 SEC 4 (a)-(c) MAY 04, 2022.

ALL STATE REMEDIES EXHAUSTED

ARTICLE 11.07 TRIAL COURT WRIT NO. 2008-  
421, 735-C WRIT OF HABEAS CORPUS

CLAIMS MADE ON WRIT OF HABEAS CORPUS

(1) 6<sup>TH</sup> AND 14<sup>TH</sup> AMENDMENT INEFFECTIVE ASSISTANCE OF COUNSEL. ATTORNEY MARVIN WILLIAMS FAILED TO ARGUE THE TIME EXCEEDS STATUTORY MAXIMUM ALLOWABLE BY LAW. 2<sup>ND</sup> DEGREE ROBBERY CHARGE. STATUTORY MAXIMUM IN TEXAS IS 20 YEARS. EDWARD SWANSON HAS 50 YEARS IN STRICKLAND VS. WASHINGTON, 466 U.S. 668 (1984) ALSO... GLOVER VS. UNITED STATES, 531 U.S. 298 (2001) BUT FOR THE LAWYER'S MARVIN WILLIAMS' UNPROFESSIONAL ERRORS, THE RESULT OF THE PROCEEDING WOULD HAVE BEEN DIFFERENT. ACCORDING TO.. THE RULES OF STRICKLAND AND GLOVER COUNSEL'S DEFECTIVE REPRESENTATION" THAT RESULTS IN AN INCREASE IN A PRISON TERM IS PREJUDICIAL UNDER STRICKLAND GLOVER VS. UNITED STATES, 531 U.S. 298 (2001) SWANSON'S STATUTORY MAXIMUM FOR 2<sup>ND</sup> DEGREE ROBBERY CHARGE IS 20 YEARS IMPRISONMENT. MARVIN WILLIAMS FAILED TO ARGUE SWANSON'S SENTENCE IS.. IN VIOLATION OF THE RULES SET FORTH IN... APPRENDI VS. NEW JERSEY, 530 U.S. 466 (2000) APPRENDI VS. NEW JERSEY, 536 U.S. 584 (2000) BLAKELY VS. WASHINGTON, 542 U.S. 296 (2004).

RE: TRIAL COURT WRIT NO, 2008-422, 735-C  
ARTICLE 11.07 WRIT OF HABEAS CORPUS  
TRIAL COURT, IN THE 137<sup>TH</sup> DISTRICT COURT  
OF LUBBOCK COUNTY, TEXAS

SWANSON ARGUED THAT... HIS SENTENCE EXCEEDS  
STATUTORY MAXIMUM OF 20 YEARS, SWANSON IS  
IN PRISON WITH A 50 YEAR PRISON TERM.  
STATUTORY MAXIMUM IS 20 YEARS FOR A 2<sup>ND</sup>  
DEGREE NON-AGGRAVATED OFFENSE.

SWANSON EXHAUSTED ALL OF HIS STATE REMEDIES

FINDINGS OF FACT AND CONCLUSIONS OF LAW  
FILED APRIL 18, 2022 2:50 PM 137<sup>TH</sup> DISTRICT  
COURT LUBBOCK COUNTY, TEXAS

TO THE HONORABLE COURT OF CRIMINAL APPEALS  
OF TEXAS.

THEY DENIED THE WRIT ON THE GROUNDS THAT  
SWANSON DID... NOT PROVE BY A PREPONDERANCE  
OF THE EVIDENCE, BUT FOR A VIOLATION OF THE  
U.S. CONSTITUTION NO.. RATIONAL JURY/JUROR COULD  
HAVE FOUND HIM GUILTY BEYOND A REASONABLE  
DOUBT.

THIS IS CONTRARY TO STRICKLAND VS. WASHINGTON  
466 U.S 668, 694 (1984)

STANDARD FOR GRANTING RELIEF  
THE "HELD" THAT... 2254 (d) (1)'S LANGUAGE  
IN WILLIAMS VS. TAYLOR, 529 U.S. 362 (2000)  
THE COURT "HELD" THAT 2254 (d) (1)'S "CONTRARY TO  
CLAUSE" REQUIRED THE "REJECTION" OF STATE  
COURT DECISIONS WHICH WERE "SUBSTANTIALLY"  
"DIFFERENT" FROM "RELEVANT" PRECEDENT(S)  
OF THIS COURT. 137<sup>TH</sup> DISTRICT COURT OF LUBBOCK  
COUNTY, TEXAS, DECISION IS CONTRARY TO A  
RELEVANT PRECEDENT OF THIS COURT.

FINDINGS OF FACT AND CONCLUSIONS OF LAW  
FILED APRIL 18, 2022 2:50 PM BY SARAH L. SMITH  
LUBBOCK COUNTY DISTRICT CLERK, THEY STATED  
THAT EDWARD SWANSON DID NOT PROVE BY A  
PREPONDERANCE OF THE EVIDENCE.

THE COURT GAVE AN EXAMPLE OF A MISREPRESENTATION OF STRICKLAND VS. WASHINGTON, 466 U.S. 668 694 [1984].

IF A STATE COURT WERE TO REJECT A PRISONER'S  
CLAIM OF... INEFFECTIVE ASSISTANCE OF COUNSEL  
ON THE GROUNDS THAT.. THE PRISONER HAD NOT  
ESTABLISHED BY A PREPONDERANCE OF EVIDENCE  
THAT THE RESULT OF THE CRIMINAL PROCEEDING  
WOULD HAVE BEEN DIFFERENT.

STANDARD FOR GRANTING RELIEF  
CONTRARY TO CLAUSE

WILLIAMS VS. TAYLOR, 529 U.S. 362, 409, 410 (2000)  
IN ADDITION TO THE SITUATION WHERE A STATE  
COURT DECISION IS CONTRARY TO OR AN  
UNREASONABLE APPLICATION OF CLEARLY ESTABLISHED  
CONSTITUTIONAL LAW, 28 U.S.C. 2254 (d)(2) PROVIDES  
THAT A STATE COURT DECISION MUST BE REVERSED  
AND RELIEF MUST BE "GRANTED."

IF THE STATE COURT PROCEEDING RESULTED IN A  
DECISION THAT WAS BASED ON AN UNREASONABLE  
DETERMINATION OF THE FACTS, IN LIGHT OF  
THE EVIDENCE PRESENTED IN THE STATE COURT  
PROCEEDING. SEE MILLER-EL VS. COCKRELL, 537 U.S.  
322 (2003).

THE 137<sup>TH</sup> DISTRICT COURT HAS NEVER HAD A HEARING  
ON ANY OF THESE CLAIMS.

THESE CLAIMS HAVE NEVER BEEN ADJUDICATED ON  
THE MERITS.

AS REFLECTED IN THE ELECTRONIC RECORD FROM  
APRIL 19, 2022

COLEMAN VS. THOMPSON, 501 U.S. 722, 729, 730 (1991)  
PROCEDURAL BAR EXCEPTION

IN COLEMAN VS. THOMPSON, 501 U.S. 722, 729, 730  
[1991]

WE CONSEQUENTLY READ COLEMAN AS CONTAINING  
AN "EXCEPTION" ALLOWING A FEDERAL HABEAS  
COURT TO FIND CAUSE, THEREBY EXCUSING A  
DEFENDANT'S "PROCEDURAL DEFAULT" WHERE . . .

- (1) THE CLAIM OF INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL WAS A "SUBSTANTIAL CLAIM";
- (2) THE "CAUSE" CONSISTED OF THE BEING NO COUNSEL

EDWARD SWANSON'S STATUTORY MAXIMUM IS 20 YEARS.

MARVIN WILLIAMS FAILED TO ADVOCATE FOR HIS CLIENT? EDWARD SWANSON.

SWANSON IS 30 YEARS OVER THE STATUTORY MAXIMUM. SENTENCING FACTFINDING  
SEE APPRENDI VS. NEW JERSEY, 530 U.S. 466 (2000)  
APPRENDI VS. NEW JERSEY, 536 U.S. 584 (2000)

ALSO BLAKELY VS. WASHINGTON, 542 U.S. 296 (2004)  
MAXIMUM SENTENCE DEFINITION

ALSO SEE CUNNINGHAM VS. CALIFORNIA, 127 S. CT. 856 (2007)  
PRESUMPTIVE SENTENCES

## **CONCLUSION**

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Edward Swanson

Date: July 15th 2022