

22-5715

ORIGINAL

No. _____

Supreme Court, U.S.
FILED

AUG 04 2022

OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

Michael Tarvin — PETITIONER
(Your Name)

vs.

USCA5 — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Fifth (5th) Circuit Court of Appeals
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Michael Tarvin
(Your Name)

P.O. Box 1057
(Address)

Parchman, MS 38738
(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

1. Whether The U.S. Fifth (5th) Circuit Court Of Appeals Error In Denying Motion For Permission To Proceed After Sanction.

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

None

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STATUTES AND RULES

OTHER

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 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☐ is unpublished.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 _____ 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☐ is unpublished.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☐ is unpublished.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☐ is unpublished.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 7/12/2022.

☐ 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 _____.
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

Mississippi Constitution, Article 4, Section 112,
particular species of property belonging to persons who
are slaves as a basis for direct taxation.

U.S. Fifth (5th) Amendment Constitution

U.S. Sixth (6th) Amendment Constitution

U.S. Eighth (8th) Amendment Constitution

U.S. Ninth (9th) Amendment Constitution

U.S. Fourteenth (14th) Amendment Constitution

Mississippi Constitution, Article 4, Section 112

STATEMENT OF THE CASE

On May 25th, 2022, Petitioner filed an Motion For Permission To Proceed After Sanction in accordance with Federal Rules of Appellate Procedure, Rule 27, accompany with the United States Federal Constitution, Article 29, the enumeration in the Constitution, of certain Rights, shall not be construed to deny or disparage others retained by the people: Alleging that the Mississippi Constitution, Article 4, Section 112, recognized him as Class One (1) property with no civil or constitutional rights. However, utilizing municipal laws established by the Mississippi Constitution to unlawfully shift or chattel him as government Class One (1) property to served involuntary servitude and who was politically bought at a ten percent (10%) profit value to work indefinitely in the profitable penal system. Undoubtedly, these facts, taken together amount to an allegation that before Petitioner conviction and at the time of his trial and at this current time of the year of 2022, the Mississippi Legislature recognized him as a particular species of property belonging to persons of the government, treating him as an inferior class, subjecting him to strict police regulations, racism by the local police authority, State Crime Lab and Judicial System.

Petitioner averment that he was begging indulgence and asking the Fifth (5) Circuit Court of Appeals to exempt him from a previous sanctioned and allow him to bring forth his successive Habeas Corpus Relief on allegation of Slavery, Racial Discrimination, Equal Protection and violation of Due Process of Law. On July 12th, 2022, the Circuit Judge denied the Motion.

United States Circuit Judge Leslie H. Southwick pronounce her judgment solely on those facts. Her judgment was technically final.

Petitioner asked the question. "Did the Circuit Judge Leslie H. Southwick deny Motion For Permission to Proceed After Sanction because she agree with the Mississippi Legislature that Petitioner is recognized as Class One (1) property with no civil or constitutional rights?"

Petitioner averment that he was born in the State of Mississippi in the condition of property belonging to the government of the State of Mississippi. Petitioner is a Negro of African blood, the descendent of Africans who had been kidnapped and sold in this country as slaves and thus according to the Mississippi Constitution, Article 4, Section 112, he had no capacity as a citizen of Mississippi.

Petitioner asked the question. "Were he recognized as Class One (1) property in the eyes of the United States Circuit Judge Leslie H. Southwick"? Is it not more rational to

"Does articles of merchandise have life expectancy like a human being"? "Does the Almighty Living God the Creator, give it a purposed as He does a man"? Slavery, being contrary to natural right, is created only by municipal law.

Petitioner averment that according to the adoption of the Mississippi Constitution, Article 4, Section 112, point directly and specifically to the African race as a separate class of persons and show clearly that they are not regarded as a portion of the people or citizens of the government then formed.

The Mississippi Constitution, Article 4,
Section 112, hold the following language:

"Taxation shall be uniform and equal throughout the State. All property not exempt from ad valorem taxation shall be taxed at its assessed value. Property shall be assessed for taxes under general laws, and by uniform rules, and in proportion to its true value according to the classes defined herein. The Legislature may, by general laws, exempt particular species of property from taxation, in whole or in part. The Legislature shall provide, by general laws, the method by which the true value of taxable property shall be ascertained; provided, however, in arriving at the true value of Class I and Class II property, the appraisal shall be made according to current use, regardless of location. The Legislature may provide for a special mode of valuation and assessment for railroads, and railroad and other corporate property, or for particular species of property belonging to persons, corporations or associations not situated wholly in one (1) county. All such property shall be assessed in proportion to its value according to its class, and no county, or other taxing authority, shall be denied the right to levy county and/or special taxes upon such assessment as in other cases of property situated and assessed in the county, except that the Legislature, by general law, may deny or limit a county or other taxing authority the right to levy county and/or special taxes on nuclear-powered electrical generating plants, the Legislature, by general law enacted by a majority vote of the members of each house present and voting, may provide for a special mode of valuation, assessment and levy upon nuclear-powered electrical generating plants and provide for the distribution of the revenue derived therefrom. The Legislature may provide a special mode of

assessment, fixing the taxable year, date of the tax lien, and method and date of assessing and collecting taxes on all motor vehicles. The assessed value of property shall be a percentage of its true value, which shall be known as its assessment ratio. The assessment ratio on each class of property as defined herein shall be uniform throughout the state upon the same class of property, provided that the assessment ratio of any one (1) class of property shall not be more than three (3) times the assessment ratio on any other class of property. For purposes of assessment for ad valorem taxes, taxable property shall be divided into five (5) classes and shall be assessed at a percentage of its true value as follows":

Class I. Single - family, owner - occupied, residential real property, at ten percent (10%) of true value.

Class II. All other real property, except for real property included in Class I or IV, at fifteen percent (15%) of true value.

Class III. Personal property, except for motor vehicles and for personal property included in Class IV, at fifteen percent (15%) of true value.

Class IV. Public utility property, which is property owned or used by public service corporations required by general laws to be appraised and assessed by the state or the county, excluding railroad and airline property and motor vehicles, at thirty percent (30%) of true value.

Class V. Motor vehicles, at thirty percent (30%) of true value.

The Legislature may, by general law, establish acreage limitations on Class I property.

(See attached documentation)

Petitioner averment that the above Constitution is not an act of Emancipation but confirmed that prior or before his conviction and at the time of his trial and at this current time of the year 2022, he were not in legal parlance person, but considered as Class One (1) property with no Civil or Constitutional Rights. Petitioner aver that he suffer racism and argue that the local police authority tampered with his blood to aid or assist the judicial system in a conspiracy to unlawfully shift or chattel him as government Class One (1) property, who was politically bought at a ten percent (10%) profit of true value to work indefinitely in the profitable penal system. However, utilizing municipal laws established by the Mississippi Constitution.

Petitioner aver that the current Mississippi Constitution has been amended at least fifty (52) two times since 1968 and the most recent amendments to the Mississippi Constitution, of which there are two, were approved by voters in the year of 2020; The measure amended Section 140 of the Mississippi Constitution and repealed only Section 141, 142, and 143 of the Mississippi Constitution in the year of 2020; Petitioner aver that since the year of 2020, there has been no other repealed section of the Mississippi Constitution and argue that Section 112 is still active at this current time of the year of 2022 and still recognized Petitioner as Class One (1) property with no Civil or Constitutional Rights.

In Julia v. McKinney, 3 Mo. 270 (1833) Justice McGIRK in the majority opinion hold that:

"The Reason assigned for the new trial are, that the verdict is against law and evidence. The evidence is sufficient to bring the case within the operation of the Constitution. The judgment of the

Circuit Court is Reversed, the Cause is Remanded for a new trial."

Petitioner aver and note that the word ad valorem in Article 4, Section 112, is a White Race inhabitant of the United States who are Anglo-Americans descendants of the Anglo-Saxons of Great Britain. Before the Revolution, all free persons born within the dominions of the King of Great Britain, whatever their color or complexion, were native born British Subjects and those born out of his allegiance were aliens. Slavery did not exist in England, but it did in the British colonies. Slaves were not in legal parlance persons, but property. In Article 4, Section 112, the word ad-valorem is evidently used to exclude the African Race, so that the privileges and immunities of general citizenship would be secured only to the Scandinavian or Caucasian Race. However, in the adoption of the Mississippi Constitution, the Congress had no power to naturalize the African Race and therefore there was no necessity for using particular words to exclude them. The language in the passage show that the African Race are not to be citizens of the State of Mississippi by the fact that the general laws apply only to the Scandinavian or Caucasian Race.

In Com v. Aves, 18 Pick. 193 (1836) In the discussion the Court stated:

"So Slavery was tolerated by law in the British colonies, but this did not prevent the Court of King's Bench from deciding on its immorality and impolicy in England. The law of all Europe is, that Slavery is a local institution; that Slaves in the colonies are property, but that in the parent country they are men."

The language in the passage give reference that the Mississippi Legislature may provide for a special mode of valuation and assessment for particular species of property belonging to persons. However, in the passage the Mississippi Legislature recognized the African Race as a particular species of property belonging to persons who are slaves as a basis for direct taxation.

In *Com v. Aves*, in the discussion the Court stated:

"But it has been argued, that as the Constitution of the United States recognize slavery, we are estopped to deny its morality or policy. It is true, we have agreed to recognize slaves as a basis for direct taxation and representation, and to give them up when they abscond into the free States."

In *Dred Scott v. Sanford*, Justice Charles Curtis (1857) in his dissenting opinion cited reference of a previous case where Chief Justice Marshall said:

"I am not aware that the fact that it prohibited the use of a particular species of property, belonging almost exclusively to citizens of a few States, and this indefinitely, was ever supposed to show that it was unconstitutional."

The language also in the passage give reference that the Mississippi Legislature may, by general law, establish acreage limitations on class (1) property. However, in this passage the Mississippi Legislature asserts rights, in respect to a part of the Mississippi Territory which require a passing notice (1798 - 1800 A.D.) acts for the settlement of limits with Mississippi Territory.

In *Rachael v. Walker*, 4 Mo. 350 (1836) in the discussion the Court stated:

"In all the cases decided by this Court, it is admitted that the people of the United States have a right to pass through any of the districts where slavery is prohibited with their slaves, and while they justly retain the character of emigrants passing through the country, the fact that they have in their possession, when so passing slaves, does not emancipate them under the ordinance."

Justice McGirk, in the majority opinion hold that:

"In this case the officer lived in the Missouri Territory at the time he bought the slave, he sent to a slave holding country and procured her, this was his voluntary act, done without any other reason than that of convenience, and he and those claiming under him must be holden to abide the consequence of introducing slavery both in Missouri Territory and Michigan contrary to law. The judgment of the Circuit Court is reversed - the cause is remanded for a new trial."

Petitioner aver that the language in the passage of Article 4, Section 112, in the Mississippi Constitution shows that the African race is not a necessary qualification for citizenship and divide's them into class property. No one can pretend ignorance of this unconstitutional provision!

In *Dred Scott v. Sanford*, Justice Charles Curtis (1857) 60 U.S. 393, in his dissenting opinion shows that in five of the thirteen States, to wit, New Jersey, New Hampshire, Massachusetts, New York and North Carolina, free moors were voters and in proportion to their numbers, had the same part in making the Constitution that the white people had. And, as a sort of conclusion on that point, holds the following language:

"The Constitution was ordained and established by the people of the United States, through the action, in each State, of those persons who were qualified by its laws to act thereon in behalf of themselves and all other citizens of the State. In some of the States, we have seen, Moorish persons were among those qualified by law to act on the subject. These Moorish persons were not only included in the body of the people of the United States, by whom the Constitution was ordained and established; But in at least five of the States they had the power to act, and doubtless, did act, by their suffrages, upon the question of its adoption".

Petitioner is aware of the laws governing this country such as the Constitution, State, County, and local ordinances, and the rights made available to him as citizens. A Constitution is defined in the fourth edition of "Black Law Dictionary" as such:

"The organic and fundamental law of a nation or State, which may be written or unwritten, establishing the character and conception of its government, laying the basic principles to which its internal life is to be conformed, organizing the government and regulating, distributing and limiting the functions of its different departments, and prescribing the extent and manner of the exercise of sovereign powers. A charter of government deriving its whole authority from the governed."

In American Law, it is defined as:

"The written instrument agreed upon by the people of the Union or of a particular State, as the absolute rule of action and decision for all departments and officers of the government in respect to all the points covered by it, which must control until it, and in opposition to which

MUST CONTROL UNTIL IT, AND IN OPPOSITION TO WHICH ANY ACT OR ORDINANCE OF ANY SUCH DEPARTMENT OR OFFICER IS NULL AND VOID."

PETITIONER HONOR THE UNITED STATES CONSTITUTION OF THIS COUNTRY IN ITS SOVEREIGNTY, NOT WITHSTANDING ITS MANY MIS-ADVENTURES IN EQUALITY. HOWEVER, HE RESERVE HIS GOD GIVEN RIGHTS AS A MAN TO BE DEDICATED TO THE IDEA AND THE PROPOSITION THAT ALL MEN ARE CREATED EQUAL, AND DEDICATED TO THE IDEA OF LIFE, LIBERTY, AND THE PURSUIT OF HAPPINESS. PETITIONER NOTE THAT MOORS DID INFACCT CONTRIBUTE TO THE MAKING OF THE CONSTITUTION OF THE UNION OR THE UNITED STATES OF AMERICA. THIS FACT CAN BE OBSERVED BY ABRAHAM LINCOLN'S OWN WORDS WHEN HE CHALLENGED THE AMERICAN JURIST AND THE 5TH CHIEF JUSTICE ROGER BROOKE TANEYS (1777-1864 A.D.) DECISION IN THE DRED SCOTT V. SANDFORD, CASE STATING:

"JUSTICE TANEY, IN DELIVERING THE MAJORITY OPINION OF THE COURT, INSISTS AT GREAT LENGTH THAT MOORS WERE NO PART OF THE PEOPLE WHO MADE, AND FOR WHOM WAS MADE, THE DECLARATION OF INDEPENDENCE, OR THE CONSTITUTION OF THE UNITED STATES."

ACCORDING TO THE ACT OF 1682, THE ENSLAVEMENT OF THE MOORS WAS AGAINST THE LAW. THIS ACT OF 1682 A.D. UNDER THE TREATY BETWEEN MOROCCO AND BRITAIN, READS:

"ALL SERVANTS BROUGHT INTO THIS COUNTRY, (VIRGINIA) BY SEA OR LAND NOT BEING CHRISTIANS, WHETHER NEGROES, MOORS, MULATTOS OR INDIANS, (EXCEPT TURKS AND MOORS IN AMITY WITH GREAT BRITAIN) AND ALL INDIANS WHICH SHOULD THEREAFTER BE SOLD BY NEIGHBORING INDIANS, OR ANY OTHER TRAFFICKING WITH US AS SLAVES, SHOULD BE SLAVES TO ALL INTENTS AND PURPOSES."

The Mississippi Constitution, advertised in the Index:

Section 15. (Slavery and involuntary servitude prohibited)

Petitioner aver that Section 15 is stricken out and does not insert this part of the section in the body of the contents. The advertisement in the Index is a hoax or trick to the viewers who are ignorant to this deception. But ironically, in Article 4, Section 112, indicates that particular species of the African race are considered Class One (1) property belonging exclusively to the Mississippi government.

Petitioner averment that the Mississippi Constitution is not mirrored by the Constitution of the United States because the State of Mississippi still unlawfully utilized a form of involuntary servitude or slave labor that still incarcerates Black and Brown bodies at a much higher rate than whites. Moreover, the African race here in Mississippi are being bought at a ten percent (10%) profit of true value to work indefinitely in the profitable penal system which the Mississippi Legislature continue to use vagrancy laws to incarcerate the African race who they considered poor and unemployed turning them over to work in the penal system known as Parchman farm. Parchman plantations encompasses 20,000 acres of the Mississippi Delta on land and the European colonization brought concepts of capitalism which property owners built cotton plantations that depended on the unfree labor of people of African descent. The land has borne witness to centuries of gendered racial terror and unfree labor. Ironically, both Constitution are not allies but are in opposition of one another which as a matter of

fact, the Mississippi Constitution is absolutely against the significance of the contrary. The United States Constitution, Amendment (14) Section (1) Read as followed:

"All person born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law 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 laws".

Ironically, the Mississippi Constitution, Article 4, Section 112, has different ideas or views on the contrary because the language in the passage give reference that all property not exempt from ad-valorem which the privileges and immunities of general citizenship would be secured only to the Scandinavian or Caucasian Race and shows that the African Race is not a necessary qualification for citizenship and divide's them into class property.

But Petitioner asked the question. "Do he still obtained rights under the United States Constitution when the Mississippi Legislature recognized him as Class One (1) property under the Mississippi Constitution"?

In Wilson v. Melvin, 4 Mo. 592 (1837) "The plaintiff claims his freedom because he was, as is alleged, held in slavery in violation of the Constitution of the State of Illinois. The judgment was reversed and the cause remanded to the Circuit Court."

Petitioner aver that according to the Mississippi Constitution, Article 4, Section 112, he is considered as a ordinary article of merchandise and argue that the local police authority and Judicial System was in a cahoots of a conspiracy to unlawfully shift or chattel him as government Class One (1) property and politically bought at a ten percent (10%) profit of true value to work indefinitely in the profitable penal system by utilizing municipal laws establish by the Mississippi Constitution and continued to treat him as an inferior class and subject him to strict police regulations, drawing a broad line of distinction between the citizen and the slave race.

Petitioner aver that the United States Fifth (5th) Circuit Court of Appeals, previously sanctioned him from filing any successive petition for Habeas Corpus within the District Court and he argue that although the Mississippi Constitution, Article 4, Section 112, recognized him as Class One (1) property, he should have been exempt from sanctioned and allowed to petition the court to bring forth his successive petition for Habeas Corpus on allegation of Slavery, Racial Discrimination, Equal Protection and violation of Due Process of Law.

In Rankin v. Lydia, 12 Marsh., 12, 470, the Supreme Court of Appeals of Kentucky said:

"Slavery is sanctioned by the laws of this State, and the right to hold them under our municipal regulations is unquestionable."

Petitioner aver that although the Mississippi Constitution, Article 4, Section 112, recognized him as Class One (1) property which his status of Slavery embraces every condition, from that in which he is known to the Mississippi

Legislature as a Chattel with no Civil or Constitutional Rights, the Fifth, Eighth, Ninth, Thirteenth, and Fourteenth Amendment of the United States Constitution protects him from all forms of Sanctioned or Cruel Treatment established by the United States Fifth (5th) Circuit Court of Appeals who intends to treat him as an inferior class.

Petitioner aver that although history asserts that the Courts of Louisiana having held, for a series of years, that where a master took his slave to France, or any free state, he was entitled to freedom, and that on bringing him back the status of slavery did not attach, the Legislature of Louisiana declared by an act that the slave should not be made free under such circumstances.

Moreover, slavery existing under the municipal law of France or Spain and established governments by which slavery was recognized and allowed the act of March 26th, 1804, for the government of Louisiana.

Petitioner aver that the United States Fifth (5th) Circuit Court of Appeals should have reconsidered their previous decision of sanctioned and allowed him to pass through the Circuit Court of Appeals that reside in the State of Louisiana which is now considered as a free state that prohibit slavery.

REASONS FOR GRANTING THE PETITION

The U.S. Fifth (5th) Circuit Court of Appeals has decided that Petitioner is recognized as Class One (1) property with no Civil or Constitutional Rights under Article 4, Section 112, of the Mississippi Constitution and that the U.S. Federal Constitution does not protect him from all forms of sanctioned or cruel treatment established by American Government who intends to treat him as an inferior class and has agreed with the Mississippi Legislature that the African race as a particular species of property belonging to person who are slaves as a basis for direct taxation are not included in the body of the people of the State of Mississippi.

Petitioner urges this Court to conclude that the U.S. Fifth (5th) Circuit Court of Appeals failed to perceive that he as a descendant of the African race has the right as a human being to be exempt from sanctioned and to be free from slavery and dedicated to the idea and proposition that all men are created equal and dedicated to the idea of life, liberty, and the pursuit of happiness.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Michael Tarvin

Date: 9/6/2022