

22-5975

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES

Donnie Earl Phillips Jr. — PETITIONER
(Your Name)

vs.
Criminal District Court #1
OF TARRANT COUNTY (STATE OF TEXAS) — 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

Donnie Earl Phillips Jr. #0518336
(Your Name)

100 N. Lamar
(Address)

FORT WORTH, TEXAS, 76196
(City, State, Zip Code)

INCARCERATED
(Phone Number)

QUESTION(S) PRESENTED

1. Does Fundamental Error, Plain Error, Clear Error, Constitutional Error all coincide when depriving a person of a fair trial?
2. Is Dismissal the only Remedy for deprivation of constitutional right to speedy trial?
3. Isn't there a time limit on correcting/or reducing a sentence?
4. Is being reindicted a violation of 5th Amendment, showing prejudice, bias, malice practice under deprivation of Rights, under color of law? For No person shall be subject for the same offense to be twice put in jeopardy of life and limb?
5. Does proximate causation damages fall under malicious prosecution, Actual awareness malice, Traditional malice, as well as Extreme Risk and Awareness of Risk?
6. Does multiple Indictments for the same act or acts using illegal/void fraud information fall under malicious prosecution?
7. What are future and collateral damages?
8. Is it unlawful to rely on an instrument/conviction that was part of an illegal sentence and wrongful imprisonment, set it aside, and use it again to continue illegal prosecution outside of jurisdiction?
9. What is collateral Estoppel?
10. Is tampering, fraudulent use, altering, destroying, concealing grounds to reopen a case if it has harmed the rights of a person?
11. Can a Nunc Pro Tunc without knowledge nor consent by actual person, be approved if the same conviction has already been misused illegally to violate the person in a illegal prosecution that resulted in wrongful imprisonment and was therefore granted relief through pro se post conviction?
12. It is illegal to hybrid, correct?
13. If you've paid an attorney, and they are ineffective, you did not go to court once during the period of the poor representation, they get off your case unannounced, keep your money, and the case was under investigation, and client filed a pro se writ that relieved case, aren't you entitled to a refund?
14. Where two or more are seeking to accomplish an object of course of action, they reach meetings of the minds on the object or course of action, and one or more unlawful overt acts are taken in pursuance of the objective of action and damages occur as a proximate result, isn't that equal to the Elements that constitute a civil conspiracy?
15. Under the Tim Cole Act, a person is entitled compensation if the person has served in whole or in part a sentence under the law and then was granted relief for illegal prosecution, pardoned/acquitted by pro se Habeas corpus, correct?
16. Actual Innocence or illegal sentence/imprisonment due to illegal instruments approved by higher courts, should trigger the question of jurisdiction subject matter Face Attack by a magisterial duty on the part of the controller to pay compensation to individual wrongfully imprisoned?

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:

District Court 372 Tarrant County State of Texas
District Court 371 Tarrant County State of Texas
County Criminal Court 6 Tarrant County State of Texas
Court of Criminal Appeals of Texas Capitol Station Austin State of Texas

RELATED CASES

6-29-22 - Ex Parte Donnie Earl Phillips Jr. Court of Criminal Appeals of Texas - C-371-WO12125-1167265-A
6-29-22 - Ex Parte Donnie Earl Phillips Jr. Court of Criminal Appeals of Texas - C-371-WO12124-1168221-A
collateral - State of Texas vs Donnie Earl Phillips Jr. Indictment 1635835 3-13-20
granted relief - State of Texas vs Donnie Earl Phillips Jr. Indictment 1735446 (Re Indictment of 1635835)
Double Jeopardy - State of Texas vs Donnie Earl Phillips Jr. Indictment 1168221 > 9-2-09 illegal prosecution
Relief - Post Conviction - State of Texas vs Donnie Earl Phillips Jr. Indictment 1167265 > 9-2-09 illegal imprisonment
Relief - Post Conviction - State of Texas vs Donnie Earl Phillips Jr. Indictment 1524914 - 12-14-17 - 4/8/19 wrongful -
malice set aside - State of Texas vs Donnie Earl Phillips Jr. cause # 0930525 - Fraud tamper altered out of jurisdiction
illegal instrument - State of Texas vs Donnie Earl Phillips Jr. cause # 0906761 - combined to illegal prosecution all
illegal instrument - State of Texas vs Donnie Earl Phillips Jr. cause # 0906761 - related in proximate causation
illegal instrument - State of Texas vs Donnie Earl Phillips Jr. cause # 0906761 - damages - currently

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APPENDIX A	- Documents to show Fundamental ERROR, illegal prosecution (OUT of it's proper jurisdiction to wit cause #1524914 though misdemeanor conviction was in Felony court-unfair trial, CDC #1 is Felony court, illegal instruments used on indictment set aside for malice future practice (current) Double jeopardy, and all other indictments outside of jurisdiction initially cause #5 0930525 and 0906761 -proximate causation damages
APPENDIX B	Court of Criminal Appeals of Texas PROSE' WRIT OF HABEAS CORPUS SHOWING REASON OF RELIEF granted due to illegal prosecution ineligible instruments, fraud tampering of altering 0930525 Driving while license suspended and secretly altered still misused illegally and ineligible with linking charges current
APPENDIX C	Documents to show proof of fraudulency, tampering, concealing, fabrication, malice practice dating back since 2004 utilized illegally initially due to tampering and again for malice traditional practice on multiple indictments, Nunc Pro Tunc was not signed nor thumb printed on 7-25-19 though deceptively portrayed in secret
APPENDIX D	Indictments and charges tainted by the proximate causation damage links and other charges in enhancing paragraphs that are now tainted in relation to harming and violating petitioner, BODA help
APPENDIX E	Expunction Filed by petitioner under 55.01 due to being pardoned for wrongful sentence and conviction, (etc.) the date of hearing, and a copy of the court still in aim to harm petitioner as well as showing proof of altering cause #0930525 as if it were still legal, it has been used multiple times illegally for malice prosecution
APPENDIX F	

TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
• Hazel Atlas Glass vs Hartford Empire 1941 Ohio and Oklahoma Cases	#3
• Briansdall Refining Corp v Birnamwood Oil Co., 92 F.2d 817	#3
• Ex Parte Donnie Earl Phillips Jr. C-371-W012124-1168221-A	Appendix(B)
• Ex Parte Donnie Earl Phillips Jr. C-371-W012125-1167265-A	
• Bond v U.S., 529-U.S. 334-2000	#3
• Ex Parte E.H. Supreme Court of Texas May 15, 2020 602 S.W.3d 486 An unconstitutional law is void, and is no law, an offense created by it is not a crime and a conviction under it is not merely erroneous but illegal and void	
• Hill v. State Court of Appeals of Texas, Tyler	

STATUTES AND RULES

- Clearfield Doctrine Supreme Court Annotated Statute, Clearfield Trust Co. v. United States 318 U.S. 363-371 1942
- Legal Encyclopedia Am. Jur. 2d, Malice Prosecution § 89 False arrest False Imprisonment - Civil Rights violation under color of law § 98 - wrongful Arrest, and Imprisonment, Fraudulent investigation, fabrication of evidence, and conspiracy to violate defendant's constitutional rights § 102 Allegation - False Arrest - Procurement of Indictment on material false information § 103 False Imprisonment, § 105 Malicious Prosecution § 106 Gross Negligence § 120 Proof of 4th and 14th Amendment claims 4 elements Defendant under color of authority acted, personally participated, intentionally, allege of false was the proximate.
§ 126 PROXIMATE CAUSATION OF DAMAGES
- ALR Action For Breach of Contract as basis of action for malicious prosecution or abuse of process 187 ALR 3d 580
- Constitution Prohibits Against Double Jeopardy 5th Amendment

OTHER

Due Process: schlu-type procedural holds that a wrongfully convicted defendant is entitled to compensation, it should trigger a magisterial duty to compensate as well as reopen and investigate all other related links/charges/indictments

A clerical error is not utilized multiple times, nor is it correctable after it has violated the rights and been utilized illegally multiple indictments... it is not if at all a clerical error, it is malicious prosecution in practice Fundamental Plain, Clear, Constitutional ERROR that should be investigated in merit of good cause

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 A to the petition and is

☐ reported at 8.25.22 Tr. Ct. NO. C-1-W012182-1524914-A ^{WR-104,603-05}; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the Criminal District Court #1 court appears at Appendix A to the petition and is

☐ reported at 8.16.22 (though lack jurisdiction); 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 8/31/22.
A copy of that decision appears at Appendix A.

☐ A timely petition for rehearing was thereafter denied on the following date: Fundamental Error ^{Extra-Ordinary} and a copy of the order denying rehearing appears at Appendix A, B, C, D, 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. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

- **Certiorari Knowledge** - once a judicial determination has been made that an accused has been denied a speedy trial the only remedy available to the court is "TO REVERSE THE CONVICTION, VACATE THE SENTENCE, AND DISMISS THE INDICTMENT" - reduction of sentence will not suffice
- All But Fundamental ERROR is waived with regard to a charge to which a person fails to object.
- 8th Amendment . . . "nor cruel and unusual punishment be inflicted"
- Bill of Rights Section 3 - Equality under the law shall not be denied or abridged because of sex, race, color, or national origin.
- 5th Amendment - No person shall be subject for the same offense to be twice put in jeopardy of life or liberty, without due process of law, nor private property taken without just compensation
- A misdemeanor's statute is not proper outside of jurisdiction, in a Felony jurisdiction it is then illegal
- 14th Amendment - . . . No state can make laws that abridge any right, privilege, or protection of citizen of the U.S.; nor pass laws that may cost a person his life, imprison him, unless he has been found guilty of a crime in a court of law by due process of law (Following Fair legal practices based upon fair laws. No STATE may deny any person under it's government equal protection of the law)
- Purpose - The purpose of the statutes setting forth offense of tampering with physical evidence is to maintain the honesty, integrity and reliability of the justice system and to prohibit persons from creating, destroying, forging, altering or otherwise tampering with evidence that may be used in an official investigation or judicial proceeding
- Collateral Estoppel in criminal trials is integral part of the protection against double jeopardy guaranteed by this amendment and Amend. 14
- Constitutional Prohibitions against Double jeopardy: 1) trial for the same offense after acquittal 2) Trial for same offense after conviction 3) multiple punishments for same conviction
- Where there is fraud placed upon a court, the court has to reopen the case - under deprivation of rights under color of law malicious prosecutions Hazel Atlas Glass vs Hartford Empire 1941 Ohio and Oklahoma cases
- As an American I fall under the 11th Amendment and am not subject to a Foreign State, entity nor corporation
- Any false representation of material facts made with knowledge of falsity and with intent that it shall be acted on by another in entering ~~contract~~ contract, and which is so acted upon constitutes "fraud" and entitles party deceived to avoid contracts or recover damages - Barnsdall Refining Corp v. Birnamwood Oil Co., 92 F.2d 817.
- Clearfield Doctrine
- 10yr statute of limitation violation constitutes illegal enhancements - non jurisdictional
- Am. Jur. 2d, Malicious Prosecution (Legal Encyclopedia) §126 - Proximate Causation Damages
A proximate cause of damages is that which in a natural and continuance sequence produces the damages, and without which the damages would not have occurred. It need not be the only cause, nor the last nor nearest, it is sufficient if it occurs with another at same time combined causing damages

STATEMENT OF THE CASE

This specific case is related to an erroneous chain of illegal prosecutions. The instruments utilized on indictment 1524914 to wit 0930525 (which was tainted in 2004 as a Driving While Intoxicated and misused illegally multiple times afterwards though on its Face illegal to apply at all due to tampering (see document H of Appendix C) along with other fraudulent documents and indictments in Appendix C, D. There was also relief granted in link to this matter Appendix B that have the same exact combination used in the illegal sentence prosecution, wrongful imprisonment, where relief was granted. See the Grounds For Relief, Appendix B. A Lawyer was hired in 2020 (Dunham and Jones) while the courts ~~without~~ without consent nor approval appointed the unknown attorney J. Eric Nickols during same period... He has been illegally altering my government documents. Please note I did not sign nor thumb print approval for a Nunc Pro Tunc as portrayed 7-25-19 see Appendix C that is another document that has been portrayed for deception and malice practice. This entire case was Face Attacked in reference to the subject matter in 2017 in court CDC #1 which is a "Felony" court, He advised not only was the prosecution illegal, petitioner stayed in Tarrant County Jail from 12-14-2017 to 4-8-2019 approx 16 months for what was actually a first DWI allegation for the instruments (both) not only 0930525 but 0906761 as well were both used in an illegal prosecution and practice (same cases granted relief to wit.) Petitioner was blind sided coerced into "a lesser charge"? though the charge was to be dismissed nor was it grounds to be a Class A misdemeanor. The courts maliciously set aside an already tainted charge, for more malice. In addition if you'll examine Appendix E where the court is denying expunction... the #2. (same case # 0930525) has been illegally altered as if no harm was done already to petitioner as a Driving While License Suspended. though if you examine all indictments related, the damage Fundamental ERROR is CLEAR Plain and Unconstitutional that the petitioner has been severely violated multiple times and they attempt to proceed unlawful methods. This is an act of several traditional malice practices that confirms that there is a prejudice so great against petitioner, grounds of relief are on its Face as well as compensation collateral and all other aspects. Please instill Justice where Framing and Railroadings has no place nor a reason. This was out of jurisdiction as well as illegally used, and is "currently" being used in double jeopardy re-indictment 1735446. though entire indictment is fraudulent, I am still being compelled against Free will.

REASONS FOR GRANTING THE PETITION

(Under Rule 11, and ~~Face~~ Attack subject matter Jurisdiction deprivation and unlawful practice :)
With Deep Veneration I ask that an evaluation beyond stereotyping or other cases for this is a serious matter that has been covered multiple times. The decision(s) re out of jurisdiction initially, the conviction of a misdemeanor for 1524914 was in Felony Court and the instruments 0930525 09106761 were both used in multiple illegal sentences as well as this one. The due process has been violated when the courts of lower CDC#1 prosecuted petitioner on a tainted indictment that petitioner attacked at Face the subject of jurisdiction and was neglected blind sided and coerced to sign. See the writ of HABEAS CORPUS 11.07 filed pro se and the grounds for Relief That were granted in Appendix "B". stating to wit: Ground 1) TRIAL COURT WAS IN ERROR OF JURISDICTION GROUND 2) Actual Innocence of DRIVING WHILE INTOXICATED-FELONY REPETITION; 3) CONSPIRACY THEORY OF JUDGE, PROSECUTOR, COURT APPOINTED LAWYER, AND CLERKS, AND 4) INELIGIBLE CHARGES/CONVICTIONS APPLIED MULTIPLE TIMES TO ENHANCE ILLEGALLY. This can be found in the MEMORANDUM COLLATERAL CONSEQUENCES ILLEGAL SENTENCES, STATING AM IN FACT ELIGIBLE FOR GROUNDS OF RELIEF. They have Re Indicted petitioner approx 2 1/2 yrs later after petitioner filed post-conviction writ pro se. In addition an enhancement is not valid unless found guilty at punishment of trial... The indictments violated due process of law for the law statute is. Innocent until proven guilty, not guilty til proven innocent therefore to waive a "ghost" never gave grounds to illegally apply as if petitioner was enhanced on an "allegation". Where there is FRAUD, TAMPERING, multiple indictments with illegal instruments Face Value, Clear ERROR, Plain ERROR, Constitutional ERROR, FUNDAMENTAL ERROR in meritorious claim I ask the U.S Supreme Court to Honor this petition consider laity of the petitioner and the procedures for this subject matter of Jurisdiction as been illegally (in reference to "current" illegal prosecution since 2014 when the lower courts unlawfully utilized an "altered charge" and tainted the back ground of the petitioner. For it to be overlooked repetitively shows that deprivation of rights under color of law and prejudice bias practice has been a traditional event against the plaintiff Donnie Earl Phillips Jr. #0518336. This is a matter of Malice prosecution and proximate damages of causation that has been and is still being attempted by The Tarrant County District, Criminal Judicial Courts to be swept under the rug. Let the record show that I am not trash, but a human being of the United States and I am and have rights, am Immune and should be protected from this cruel and unusual punishment. Be advised we are limited access as well as legal assistance that actually protect us from

These type of unknown hate crimes within, to Alter someones information is to Alter their life. Tampering is a crime, Fraud is a crime, perjury is a crime, Identity theft/Fraud is a crime. ...these are actually being practiced in the judicial system (see Appendix C) and the "judges" are approving an illegal practice that is full of deceit and malice... The act of attempting to change a altered illegal conviction that should have never been used due to false charge and it cause an individual's life rights to be damaged by illegal prosecutions, illegal sentences wrongful, convictions, wrongful imprisonments, and portray it never happened see Appendix D indictments, and Appendix E 0930525 is illegal to use.. you cannot correct illegally sentencing and imprisonment multiple times, without compensation, and continue using the same tainted tampered illegal instrument to proceed with mal-practice... All charges have been infected and is proximate causation damaging currently in yet another violation of Double Jeopardy Reindictment for same offense "initially" tainted as well as illegal.... How is an illegal prosecution still allowed authority when they were out of jurisdiction from the beginning? This is Fundamental Constitutional Plain Clear ERROR that the Courts of Tarrant County, Ft Worth TX are in a Era of ERRORS Please Grant this "Extraordinary" Cause. **CONCLUSION**

The petition for a writ of certiorari should be granted.

Respectfully submitted,
Donnie Earl Phillips Jr.


Date: October 13, 2022