

JUN 01 2022

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No. 22-6240IN THE  
SUPREME COURT OF THE UNITED STATESWashington D. C.Robert Dale Hines #2020452 — PETITIONER  
(Your Name)

vs.

Lumpkin - Director TAG - CID — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS

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

PETITION FOR WRIT OF CERTIORARI

Robert Dale Hines #2020452  
(Your Name)938 S. Fm. 1673  
(Address)Snyder, TX 75549  
(City, State, Zip Code)

(Phone Number)

**ORIGINAL**

## QUESTION(S) PRESENTED

### RACISM

How the Court violated my constitutional Rights, my attorney who I've known since the fourth grade was ineffective, this was his second time to represent me in trial Court, he knew that I trusted him but now I have doubt, I received prison time for the second time while having him as my attorney, an investigation is warranted.

My attorney failed to object to the application paragraph in the jury charge, the indictment was married to concealing, theirs a difference between 'concealing' 'altering' and 'destroying' evidence.

At trial, after the State's case-in-chief, the trial court ordered a recess until the next day, informing the jurors that the lawyers would work on the charge. The next day, the trial court submitted the jury charge to the parties on the record, and Appellants' trial counsel replied "No objections, Your Honor." In both the abstract and application paragraph, the charge included all three means of violating the statute: "alter, destroy [?] or conceal." The error in the application paragraph "taints" the entire jury charge.

1) Police seized drugs without a warrant in violation of the Fourth Amendment;

2) An objectionable jury member [Mr. Armstrong] sat on the jury after trial counsel made a motion to strike him in violation of the Fifth Amendment;

3) Trial counsel was ineffective because he failed to object to the abstract and application paragraph in the jury charge on his tampering with evidence count; and

4) Both trial counsel and appellate counsel were ineffective because they didn't file any pre-trial motions.

## LIST OF PARTIES

11

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:

Trial Counsel for  
Appellant

Jeff Johnson  
3301 N. 3rd St.  
Abilene, TX 79603

Trial Counsel for  
State

Jim Hicks  
Army Beasley  
42nd District Attorney  
300 Oak St.  
Suite 200  
Abilene, TX 79602

## RELATED CASES

Cada v. State, 334 S.W. 3d 766

Vasquez v. State, 389 S.W. 3d 361

## 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 UNITED STATES COURT OF APPEALS

APPENDIX B REHEARING - DENIED

APPENDIX C UNITED STATES DISTRICT COURT

APPENDIX D

APPENDIX E

APPENDIX F

## **TABLE OF AUTHORITIES CITED**

<b>CASES</b>	<b>PAGE NUMBER</b>
--------------	--------------------

**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 C 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 3 - 28 - 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: 4-15-2022, and a copy of the order denying rehearing appears at Appendix B.

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).

Cases in the Court of Appeals may be reviewed by the Supreme Court by the following reasons;

(1) By writ of certiorari granted upon the petition of any party to any civil or criminal case, before or after rendition of judgment or decree.

### 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**

The statutory provision believed to confer on this court jurisdiction to review on a writ of certiorari the judgment or order in question

A United States Court of Appeals has entered a decision in conflict with the decision of another United States Court of appeals, has decided an important federal question in a way that conflicts with a decision by a State Court of last resort; or has so far departed from the accepted and usual course of judicial proceeding, or sanctioned such a departure by a lower court, as to call for an exercise of Court's supervisory power.

## STATEMENT OF THE CASE

Petitioner - Appellant takes the position that his Constitutional Rights were violated in Cause - 25861-A in the Judicial District Court of Taylor County Texas Honorable John Weeks, Judge Presiding.

In the indictment, the State specifically alleged that Appellant intentionally and knowing concealed] a tangible thing, to wit: METHAMPHETAMINE, omitting any allegations that Appellant - might have "altered" or destroyed" evidence. At trial, after the State's Case-in-Chief, the trial court ordered a recess until the next day, informing the jurors that the lawyers would work on the charge. The next day, the trial court submitted the jury charge to the parties. On the record and Appellant's trial counsel replied, "No objection, your<sup>13</sup> Honor. "In both the abstract and application paragraph, the charge included all three means of violating the statute; alter, destroy or conceal. If Appellant fails to object to the charge, as here, we will reverse only if the record shows "egregious harm."

The sufficiency of the evidence is measured by the specific alternative elements the state has alleged in the indictment. *Cade v. State*, 334 S.W. 3d 766. The state lost this conviction because it did not pay sufficient attention to its pleading.

## REASONS FOR GRANTING THE PETITION

### Pardon is called for

Simply stated the state had a decent case to attempted tampering by alteration or destruction. They fatally chose to indict for concealment, of which there is legally insufficient proof. The Court of Appeals erred in holding otherwise. The conviction for tampering should be reversed and rendered.

## **CONCLUSION**

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Robert Hines # 2020452

Date: 9-5-2022