

No. 22-6327

ORIGINAL

Supreme Court, U.S.
FILED

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OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

Anthony West — PETITIONER
(Your Name)

vs.

COURT OF CRIMINAL APPEALS RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Court of Criminal Appeals

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

PETITION FOR WRIT OF CERTIORARI

Anthony West
(Your Name)

Hughes Unit 3201 FM 929
(Address)

Gatesville, Tx. 76597
(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

Has the state Court of Criminal Appeals of Texas' adjudication to dismiss petitioner's writ of Habeas Corpus contrary to or involve an unreasonable application of established federal law where petitioner has made a prima facie showing that his conviction rests on violations of the United States Constitutional laws?

Should the Court of Criminal Appeals entertain petitioner's writ of habeas corpus to establish the Constitutionality of his conviction?

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

Appeal on Direct Review in Court of Appeals

West v. State, No. 05-02-01653-CR, 2003 WL 22976705 (Tex. App. - Dallas Dec. 19, 2003, pet. ref'd) (not designated for publication).

Applications for Writ of Habeas Corpus pursuant to art 11.07 in Court of Criminal Appeals

Ex parte West, WR-64,130-01, W01-43488-J(A) (Tex. Crim. App. Feb. 22, 2006)

Ex parte West, WR-64,130-02, W01-43488-J(A) (Tex. Crim. App. Feb. 27, 2008)

Ex parte West, WR-64,130-03, W01-43488-J(B) (Tex. Crim. App. June 11, 2008)

Ex parte West, WR-64,130-04, W01-43488-J(C) (Tex. Crim. App. Oct. 12, 2011)

Ex parte West, WR-64,130-05, W01-43488-J(D) (Tex. Crim. App. Sept. 19, 2012)

Ex parte West, WR-64,130-06, W01-43488-J(E) (Tex. Crim. App. Jan. 16, 2013)

TABLE OF CONTENTS

OPINIONS BELOW.....	1
JURISDICTION.....	2
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	3
STATEMENT OF THE CASE	4
REASONS FOR GRANTING THE WRIT	5
CONCLUSION.....	6

INDEX TO APPENDICES

APPENDIX A *Decision of Court of Criminal Appeals and date thereof*

APPENDIX B

APPENDIX C

APPENDIX D

APPENDIX E

APPENDIX F

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

Bledsoe 188 F.3d 269
Cain 324 F.3d 297
Drinkard 97 F.3d 751
Flanders 299 F.3d 974
Herrera 113 S. Ct. 853
Schlup 513 U.S. 299, 115 S. Ct. 851
Williams 120 S. Ct. 1495

STATUTES AND RULES

Tex Code Crim Proc art 11.07 § 4(a)
28 USC § 22.44 (b)(2)(B)(ii)

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 _____ 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 _____; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

The opinion of the _____ court 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.

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 9/7/22.
A copy of that decision appears at Appendix A.

☐ 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. § ^{2403(b)}~~1257(a)~~.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

A habeas petitioner who can show actual innocence can get his constitutional claims considered on their merits - Herrera 113 S.Ct. 853
Flanders 249 F.3d 974

The Court may grant relief if the state court's adjudication resulted in a contrary decision or unreasonable application of established federal law.
- 22 USC 22.54(d)(1) ; Bledsoe 188 F.3d 269 ; Cain 324 F.3d 297 ;
Drinkard 97 F.3d 751 ; Williams 120 S.Ct. 1495

An applicant may overcome the bar of the AEDPA by alleging sufficient specific facts establishing that 2) by a preponderance of the evidence, but for a violation of the U.S. Constitution, no rational juror could have found the applicant guilty beyond a reasonable doubt.

- Tex Code Crim Proc Ann art 11.07 § 4(b) ; 28 USC § 22.44 (b)(2)(B)(ii)
Schlup 115 S.Ct. 851

STATEMENT OF THE CASE

Petitioner was convicted in a Texas State Court via jury trial for a 2001 offense of capital murder. Petitioner has filed a subsequent writ of habeas corpus to the Court of Criminal Appeals pursuant to Art. 11.07 4(a) and the Court dismissed. Petitioner's habeas petition contained specific facts of a prima facie showing of Constitutional violations that contributed to his wrongful conviction and overcoming the bar of the AEDPA Act. Petitioner presents claims of Brady violations, structural errors, denial of effective counsel, and other denials of Constitutional rights. ~~_____~~
~~_____~~ The state court dismisses against its own laws and federal laws without consideration.

Petitioner presented claims sufficient to show the State withheld favorable evidence of deceased's gun possession which would've precluded conviction for capital murder and produced self defense defense. Petitioner presented facts of Confrontation Rights violations denying cross examination of witness on appointment of attorney to protect her "interest", and denial of expert who performed autopsy. Petitioner presented claims sufficient to show denial of effective counsel.

All of petitioner's claims are of Constitutional magnitude and the dismissal of his writ of habeas corpus is in conflict with the lower court's own provisions as well as federal law as determined by the U.S. Supreme Court.

Certiorari is filed invoking Supreme Court's jurisdiction within 90 days from the highest state court's dismissal of petition of habeas.

REASONS FOR GRANTING THE PETITION

The decision of the Court of Criminal Appeals to dismiss petitioner's writ of habeas conflicts with its own provisions as well as Federal Law and relevant decisions of the Supreme Court. The decision to dismiss without consideration by the lower court strips a petitioner of exhausting his state remedies to correct an unconstitutional conviction. There is importance to grant writ of Certiorari to compel lower courts to ensure the Constitutionality of its convictions in criminal cases.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Anthony West

Date: November 28, 2022