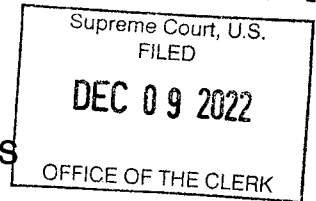


No. 22-6449

ORIGINAL



IN THE  
SUPREME COURT OF THE UNITED STATES

CARL ANTHONY WILSON <sup>PRO SE</sup>  
— PETITIONER  
(Your Name)

vs.

C.C. APPEALS OF TEXAS — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

CRIMINAL COURTS OF APPEALS OF TEXAS  
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

CARL ANTHONY WILSON  
(Your Name)

JESTER III UNIT 3 JESTER Rd.  
(Address)

RICHMOND, TEXAS 77406  
(City, State, Zip Code)

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

### QUESTION(S) PRESENTED

On May 03, 2015 at 10:24<sup>PM</sup> I was taken to SMITH County Jail in Tyler, Texas at 12:27<sup>AM</sup>. On May 4, 2015, my Blood was drawn without a search warrant or Court order. THERE WAS NO ACCIDENT INVOLVED!

① Is this a Fourth AMENDMENT Violation? U.S. CONST. IV. AMENDMENT, UNREASONABLE SEARCH AND SEIZURE?

(2) On March 15, 2022 I Filed the Instant Petition, my APPEAL Lawyer AUSTIN REEVE JACKSON IS NOW The JUDGE At My Habeas Proceeding. ART. 11.07, STATE. I Filed Ineffective Assistance of APPELLATE Counsel, on him. See PDR-1263-16 Tex. CRIM. APP. 02-15-2017 IS this A Due Process Violation, or Conflict of Interest? In 114<sup>TH</sup> Judicial Court SMITH COUNTY, TEX.

(3) Am I Factually Innocent?

④ I WAS Found Guilty on January 13, 2016 And I APPEALED The Sentence The same day. When the BIRCHFIELD RULING Came Down I was In DIRECT APPEAL. Does The BIRCHFIELD OPINION APPLY TO MY CASE? IMPLIED CONSENT

⑤ Can a State Court Refuse to honor a UNITED STATES SUPREME COURT PRECEDENT? ARE IS THIS CONTRARY.

(6) I Filed my MARCH 15, 2022 Petition. the State's ANSWER was Filed JULY 24, 2022; Four months Later THEY Lied and said they were not served with the application, until June 21, 2022. Findings and Fact and Conclusions of Law. JULY 22, 2022. (1) IS this FRAUD on the Court? ARE THE STATE OF TEXAS TIME BARRED?

## 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:

NO. 12-16-00014 **RELATED CASES**  
Court of Appeals of Texas Twelfth District,  
Tyler: Judgment affirmed. SEPTEMBER 21, 2016  
Tex. Court of Criminal Appeals, February 15, 2017  
P.D.R. - 1263-16: review refused  
  
U.S. District Court for the Eastern District of  
Texas, Tyler Division, writ of habeas corpus  
denied, dismissed by, C.O.A. denied, motion denied  
JUNE 9, 2020: MIXED PETITION. NO. 6:18 CV 492  
C.O.A. denied (5<sup>th</sup> Cir. Tex. June 24, 2021. NO. 20-40559  
Supreme Court of the United States NO. 21-5568  
Petition for writ of Certiorari to 5<sup>th</sup> Cir. Denied.  
Court of Criminal Appeals of Texas. WR-88,746-02  
TR. Ct. NO. 114-0948-15-B: dismissed without  
written order this subsequent application for  
WRIT OF HABEAS CORPUS. TEX. CODE CRIM. PROC. ARTICLE  
11.07, SEC. 4(a) - (C). NOVEMBER 10-26-2022  
(ii)

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APPENDIX B	Court of Criminal Appeals of Texas-2-15-2017 PDR-1263-16; REFUSED; WR-88,746
APPENDIX C	U.S. DISTRICT COURT EASTERN DIST. OF TEXAS TYLER, TX, DIVISION. NO. 6:18 CV 492 WRIT OF HABEAS CORPUS DISMISSED-04-21-2020; MIXED PETITION;
APPENDIX D	U.S. COURT OF APPEALS FIFTH CIRCUIT, JUNE 24, 2021 NO. 20-40559; C.O.A. MOTION DENIED;
APPENDIX E	SUPREME COURT OF THE UNITED STATES 11-01-2021 NO. 21-5568, 142 S. Ct. 447; CERT. DENIED
APPENDIX F	Court of Criminal Appeals of Texas, 10-26-2022 DISMISSED WITHOUT WRITTEN ORDER THIS SUBSEQUENT APPLICATION FOR WRIT OF HABEAS CORPUS, TEXAS CODE CRIM. PROC. ART. 11.07, SEC. 4(a)-(c)., Tr. Ct. NO. 124-0948-15-B; WR 88,746 <sup>(2)</sup>
APPENDIX-6	SUPREME COURT OF THE UNITED STATES ?

## TABLE OF AUTHORITIES CITED

### CASES CERT. GRANTED IN ALL THESE CASES

	PAGE NUMBER	
BIRCHFIELD V. NORTH DAKOTA, 579 U.S. 438 (2016)	(iiii)	
MANN V. NORTH DAKOTA, 580 U.S. 801 (2016)	(iiii)	
WALL V. STANEK, 579 U.S. 939 (2016)	(iiii)	
STATE V. UILLARREAL, 475 S.W. 3d 784, (2014)	(iiii)	
SUPPRESSED THE RESULTS FROM AN UNCONSENTED WARRANT-LESS BLOOD DRAW. TEX. CRIM. APP. NOV. 26, 2014) TEXAS, CASE		
BATSON VS. KENTUCKY, 476 U.S. 79 106 S.Ct. 1712, 190 L.Ed. (iiii)		
APRIL 30, 1986: REVERSED AND REMANDED: ALL WHITE JURY		
SLACK V. MCDANIEL, 529 U.S. 473, 486 - 488, 120 S.Ct. 1595 146 L.Ed. 2d 542) APRIL 26, 2000: REVERSED AND REMANDED. (iii)		
TREVIN VS. THALER, 569 U.S. 443*133 S.Ct. 1911*185 L.Ed. 2d 1044 (MAY 28, 2013)		
STATUTES AND RULES 28 U.S.C. (e) (2)		
U.S. CONSTITUTION AMENDMENT IV, UNREASONABLE SEARCHES AND SEIZURES, MUST OBTAIN WARRANT BEFORE BLOOD CAN BE DRAWN, IF NO EXIGENT CIRCUMSTANCES; (iiii)		
TEX. CONST. Art. 1, @ 9 Obtaining a warrant; WARRANTLESS BLOOD DRAW WHERE NO EXIGENT CIRCUMSTANCES PREVENTED THE OFFICER GETTING A ... (iiii)		
WARRANT; NO EVIDENCE OBTAINED IN VIOLATION OF TEXAS CONSTITUTION OR UNITED STATES CONSTITUTION SHALL BE ADMITTED AT TRIAL. 28 U.S.C. 2253 (c)		
TEX. PENAL CODE SEC. 49.04: IMPLIED CONSENT AND MANDATORY BLOOD DRAW. MUST HAVE WARRANT.		

### OTHER

1 Criminal Constitutional Law @ 205 Required (iiii)  
 Suppression of the (a) warrantless, nonconsensual blood draw, even though defendant had been convicted two previous times for DWI.  
 STATE V. UILLARREAL, 475 S.W. 3d 784 NOV. 26, 2014  
 28 U.S.C. 2244 (A) (iiii) 28 U.S.C. 2254 28 U.S.C. 2253 (B) (2)  
 28 U.S.C. 2254 (d) (1) (iiii) 28 U.S.C. 2254 (e) (2) (A) (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 F to the petition and is

☐ reported at Trial Ct. NO. 114-0948-15-B; or,  
☐ has been designated for publication but is not yet reported; or,  
☒ is unpublished.

The opinion of the 12<sup>TH</sup> COURT OF APPEALS TEXAS court appears at Appendix A to the petition and is

☐ reported at Number-12-26-00014 CR; 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 10-26-2022.  
A copy of that decision appears at Appendix F.

☐ A timely petition for rehearing was thereafter denied on the following date: OCTOBER 26, 2022, and a copy of the order denying rehearing appears at Appendix F.

☐ 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

28 U.S.C. (2254)(c)(2) NEW RULE CONST. LAW S.C.O.T.U.S.,  
(A) THE CLAIM RELIES ON: (i) A NEW RULE OF CONSTITUTIONAL  
LAW MADE RETROACTIVE TO CASES ON COLLATERAL REVIEW  
BY THE SUPREME COURT THAT WAS PREVIOUSLY UNAVAILABLE;  
AMENDMENT IV.; UNREASONABLE SEARCHES AND SEIZURES,  
THE RIGHT OF THE PEOPLE TO BE SECURE IN THEIR PERSONS,  
HOUSES, PAPERS, AND EFFECTS, AGAINST UNREASONABLE...  
SEARCHES AND SEIZURES, SHALL NOT BE VIOLATED, AND NO  
WARRANTS SHALL ISSUE, BUT UPON PROBABLE CAUSE,  
SUPPORTED BY OATH OR AFFIRMATION, AND PARTICULARLY  
DESCRIBING THE PLACE TO BE SEARCHED, AND THE PERSONS  
OR THING TO BE SEIZED. NO WARRANT WAS ISSUED.

TEX. CONST. ART. 1 @ 9 SEC. 9 SEARCHES AND SEIZURES  
THE PEOPLE SHALL BE SECURE IN THEIR PERSONS, HOUSES,  
PAPERS AND POSSESSIONS, FROM ALL UNREASONABLE...  
SEIZURES OR SEARCHES, AND NO WARRANT TO SEARCH ANY  
PLACE, OR TO SEIZE ANY PERSON OR THING, SHALL ISSUE  
WITHOUT DESCRIBING THEM AS NEAR AS MAY BE, NOR  
WITHOUT PROBABLE CAUSE, SUPPORTED BY OATH OR...  
AFFIRMATION. MAY 4, 2015 MY BLOOD WAS TAKEN: NO WARRANT

SEE STATE V. VILLARREAL, 475 S.W. 3D 784, 2014 TEX.  
CRIMINAL APPEALS (NOV. 26, 2014); STANDARD CASE LAW

28 U.S.C. 2254 (d)(1) CONTRARY TO CLAUSE

STATUTE: TEXAS PENAL CODE SECTION 49.04: IMPLIED CON-  
SENT, AND MANDATORY BLOOD DRAW PROVISION.

28 U.S.C. 2253 - APPEAL (3)(a)(C)(B)(2) REQUEST FOR C.O.A.!



## ANNOTATED STATUTES

Texas Constitution Article 1 Section 9

Obtaining a warrant; the Constitutionality of that Provision must be based on the... previously recognized exceptions to the warrant requirement. *State v. Villarreal*, 475 S.W.3d 784, 2014 Tex. Crim. App. LEXIS 1898 (Tex. Crim. App. 11-26-2014)

## ANNOTATED STATUTES

Texas Code of Criminal Procedure Art. 28.01

Even when the Repeat Offender Provision of the mandatory Blood Draw Law requires an officer to obtain a breath or blood sample, it does not require the officer to do so... without first obtaining a warrant.

Texas Penal Code Section 107

Did not justify a warrantless Blood Draw from a Repeat Offender where the STATE stipulated that - there was "No Consent" there was nothing to stop the officer from getting a warrant, and there were no exigent...

Circumstances. The Repeat Offender Provision Required The Blood Draw, but not without a warrant. See *State v. Villarreal*, 475 S.W.3d 784, 2014 Tex. Crim. Appeals. Nov. 26, 2014 Suppressed the results from an unconsented warrantless Blood draw where no exigent circumstances prevented the officer getting a warrant.

## CONSTITUTIONAL PROVISIONS

TEXAS TRANSPORTATION CODE 724.011 STATUTE:

### CONSENT TO TAKING OF SPECIMEN

(a) If a person is arrested for an offense arising out of acts alleged to have been committed while the person was operating a motor vehicle in a public place, or watercraft, while intoxicated, or an offense under SECTION 106.041, ALCOHOLIC BEVERAGE CODE, the person is deemed to have consented, SUBJECT TO THIS Chapter, to submit to the taking of one or more specimens of the person's breath or... BLOOD FOR ANALYSIS to determine the alcohol concentration or the presence in the person's body of a controlled substance, drug, dangerous drug, or other substance. VIOLATES FOURTH AMEND.

TEXAS COURT'S FAILED TO HONOR A UNITED STATES SUPREME COURT PRECEDENT. CONTRARY TO CLAUSE ON OCTOBER 26, 2022, COURT OF CRIMINAL APPEALS OF TEXAS, 28 U.S.C. 2254 (d)(1) CONTRARY TO CLAUSE, 28 U.S.C. 2254 (e)(2)

(A) The Claim relies ON - BY THE SUPREME COURT

(i) a new rule of Constitutional Law, Made Retro-active, to Cases on Collateral Review, BY S.C.O.T.U.S.

## CONSTITUTIONAL AND STATUTORY PROVISIONS

TEXAS TRANSPORTATION CODE - 724-012  
CHAPTER 724 IMPLIED CONSENT SUBCHAPTER, A-E;  
SUBCHAPTER B TAKING AND ANALYSIS OF SPECIMEN  
(724.011 - 724.019); (SECTION - 724.012)  
TAKING OF SPECIMEN

- (a) one or more specimens of a persons breath or blood may be taken if the person is arrested and at the Request of a Peace officer having REASONABLE, Grounds To believe the Person:
  - (1) while intoxicated was operating a motor... vehicle in a public place or
  - (2) was in violation of SECTION 106.041, ALCOHOLIC BEVERAGE CODE
- (e) A Peace officer may not require the taking of a specimen UNDER this section UNLESS THE OFFICER
  - (1) OBTAINS a warrant directing that the... SPECIMEN BE TAKEN; OR
  - (2) HAS PROBABLE CAUSE TO BELIEVE THAT EXIGENT CIRCUMSTANCES EXIST.

ANNOTATED STATUTES  
TEXAS PENAL CODE SECTION 49.04

IMPLIED - CONSENT AND MANDATORY BLOOD-DRAW PROVISIONS do-not establish a Constitutionally Valid basis For Conducting Such a Blood Draw;

- (a) Such testing Cannot be Justified based on IMPLIED CONSENT, the automobile exception, The Special needs DOCTRINE, OR the search INCIDENT TO ARREST EXCEPTION; AND
- (3) The GENERAL FOURTH AMENDMENT BALANCING TEST did not APPLY. SEE STATE V. UILLARREAL, 475 S.W. 3d 784 TEX. CRIMINAL APPEALS NOV. 26, 2014 CONTROLLING STANDARD, WARRANTLESS BLOOD DRAWS.

TEXAS CODE CRIMINAL PROCEDURE ARTICLE-38.23  
ARTICLE 38.23. EVIDENCE NOT TO BE USED

- (a) No evidence obtained by an officer or other person in violation of any provisions of the Constitution or Laws of the State of Texas, or of the Constitution or Laws of the UNITED STATES OF AMERICA, Shall be admitted in evidence AGAINST the accused on the trial of any Criminal Case.

## TREATISE CITATIONS

### 1 CRIMINAL CONSTITUTIONAL LAW @ 2.05

... required suppression of a warrantless, non-consensual blood draw, even though defendant had been convicted two previous times for DWI, refused to engage in sobriety tests, and refused to consent to a voluntary blood draw, because those factors were not exigent circumstances that provided an exception to the warrant requirements; *STATE V. VILLARREAL*, 475 S.W.3d 784 (S.W.2d) (concluding that "the warrantless, non-consensual testing of a DWI suspect's blood does not categorically fall within any recognized exception to the Fourth Amendment's warrant requirement, nor can it be justified under a general Fourth Amendment balancing test") ... CITING *BIRCHFIELD V. NORTH DAKOTA*, 579 U.S. 438

OVERVIEW: AS breath tests were significantly less intrusive than blood tests and in most cases served law enforcement interests, a breath test, but not a blood test, could be administered as a search incident to a lawful arrest for drunk driving. MOTORISTS were not deemed to have consented to submitted (submit) a blood test on pain of committing a criminal offense.

Cert. GRANTED: 579 U.S. 438\* 136 S.Ct. 2160) JUNE 23, 2016

## TREATISES CITATIONS

1 CRIMINAL CONSTITUTIONAL LAW @ 2.06  
OVERVIEW; ARRESTING OFFICER WHO RELIED ON  
TEXAS'S MANDATORY blood draw statute,  
TEXAS TRANSPORTATION CODE ANNOTATION 724.012  
(b)(1) to take defendant's blood without her  
consent following a collision violated defen-  
dant's FOURTH AMENDMENT EXPECTATION OF  
PRIVACY; there was a MAGISTRATE on duty but  
the officer made no attempt to obtain a  
warrant. STATE OF TEXAS'S petition for discreti-  
onary review REFUSED: IN RE ROOP, 2016 TEXAS  
CRIMINAL APPEALS; LEXIS 184 (TEX. CRIM. APP.  
JUNE 8, 2016) DISPOSITION REVERSED AND RE-  
MANDED. STATE V. VILLARREAL, 2014 TEX. CRIM.  
APP. LEXIS 1898 at \*2 (NOV. 26, 2014) (SLIP. OP.)

1 Criminal Constitutional Law @ 208  
... Required suppression of the (a) warrantless,  
non consensual blood draw, even though  
defendant had been convicted two previous  
times for DWI. STATE V. VILLARREAL, 2014 TEX.  
CRIM. APP. LEXIS 1898 (NOV. 26, 2014) (SLIP. OP.)

(TEXAS IMPLIED-CONSENT STATUTE, TEX. TRANSP.  
CODE 724.011(a), ...) - (1 CRIMINAL CONSTITUTIONAL  
LAW @ 302 (SLIP. OP.) (holding that forcible blood draw  
"not reasonable unless performed pursuant to a ...  
warrant or to an exception to the warrant require-  
ment," and "the implied consent law does not in itself  
create an exception. Texas's implied consent law, 4TH AMEND VIOL.

## TREATISES

1 Defense of Drunk Driving @ 6.05  
... • NOTE: Subsequently, suppression of the test evidence was reversed, as the blood draw was found not to have been unreasonable under the circumstances, STATE V. JOHNSTON, 336 S.W. 3d 649 (Tex. Crim App. 2011).

The United States Supreme Court's decision IN: BIRCHFIELD V. NORTH DAKOTA, 17 BIRCHFIELD VS. NORTH DAKOTA, 579 U.S. 438, 136 S.Ct. 2160, 2184-2185 195 L.Ed. 2d 560, 587-589 (2016). has significantly changed the landscape with regard to IMPLIED CONSENT, and Criminal refusal.

### TEXAS R. APP. PROC. RULE 44

(a.) (44.2) REVERSIBLE ERROR in a Criminal Case:

(a) Constitutional ERROR: 4<sup>TH</sup> AMEND. Search/Seizure

IF the appellate RECORD in a Criminal Case REVEALS Constitutional ERROR that is SUBJECT to harmless ERROR review the COURT OF APPEALS must REVERSE Judgment of Conviction OR... Punishment. UNLESS the Court determines Beyond a reasonable doubt that the error did NOT contribute to the Conviction OR Punishment, 60 years IMPRISONMENT, 4 different numbers on test?

SUPREME COURT OF THE UNITED STATES  
Decided APRIL 3, 1950

The state courts denied Habeas Corpus after obviously Careful Consideration.

If that denial violated Federal Constitutional Rights, the remedy was IN The SUPREME COURT, not in district Court.

The Court ruled that a Petition For Certiorari Should be made Before an application may be filed in another Federal Court by a state Prisoner. DARR V. BURFORD, 339 U.S. 200, 70 S.Ct. 587  
Decided: APRIL 3, 1950

TREATISES

23 MOORE'S Federal Practice - Civil Sec. 520.08  
When relief is Sought From the judgment of a state Court, the Petition must Specifically State how and where the petitioner has exhausted all available state Court remedies. In one case the Court stated as follows: 3 Petition must state exhaustion of other remedies. Darr v. Burford, 339 U.S. 200, 204-206, 70 S.Ct. 587, 94 L.Ed. 761 (1950)

ALL MY STATE REMEDIES ARE EXHAUSTED.

1 CRIMINAL CONSTITUTIONAL LAW @ 3:02

TEXAS'S IMPLIED - CONSENT LAW VIOLATED FOURTH AMENDMENT. See STATE V. VILLARREAL, 475 S.W. 3d 784 2015 TEX. CRIM. APP. LEXIS 1402 (TEX. CRIM. APP. 2015)



ROSE V. LUNDY, 455 U.S. 509 S.Ct. MARCH 3, 1982  
102 S.Ct. 1198, 71 L. Ed. 2d 379 (1982)

OVERVIEW: Because a total exhaustion rule promoted Comity and did not unreasonably impair the Prisoner's right to relief, a District Court was Required to dismiss Petitions Containing both unexhausted and exhausted Claims. CIVIL ACTION Number-6:18 CV 492  
Writ of Habeas Corpus, DISMISSED MIXED Petition leaving me the Prisoner CARL ANTHONY WILSON with the Choice of returning to State Court to exhaust ALL of my Claims, OR of amending OR Resubmitting the habeas Petition to present only exhausted Claims to the district Court.

On March 15, 2022 I Filed A New Petition For Writ of habeas Corpus. And EXHAUSTED All State Remedies, which was dismissed without written Order. Subsequent Application For Writ of Habeas Corpus, under State Constitutional law, Texas Code CRIMINAL Procedure Article 11.07 Section 4(a)-(c). The Texas Court of Criminal Appeals when Presented with Applicant's CARL ANTHONY WILSON'S Claim of Error under the UNITED STATES CONSTITUTION'S IV AMENDMENT Claim, Understandably Confined its ANALYSIS to the application of State Law. WARRANTLESS BLOOD DRAW ON MAY 4, 2015 IN Tyler, Texas at 10:24 PM At the Smith County Jail at 12:27 AM MAY 4, 2015 2 hours Later my Blood was taken without a search warrant, in violation of the IV, AMENDMENT, to the U.S. Constitution,

SLACK VS. MCDANIEL, 529 U.S. 473, 120 S.Ct. 1595,  
Decided APRIL 26, 2000

OVERVIEW: Habeas Petition that was filed after  
an "Initial Petition was dismissed without...  
adjudication for failure to exhaust State remedies,  
was not a SUCCESSIVE," Petition: Case Remanded  
to determine if Petitioner entitled to A...  
Certificate of appealability.

### TREATISES

It should be noted that the single application  
requirement refers to dispositions on the merits  
of the habeas claims, so that if a habeas application  
is dismissed for failure to exhaust remedies or  
because it is procedurally defective, another  
application raising the same or new claim is...  
deemed a first application, not a second or  
SUCCESSIVE APPLICATION. SLACK V. MCDANIEL, 529 U.S.  
473, 486-488, 120 S.Ct. 1595, 146 L.Ed. 2d 542 (2000)

In some cases, however, newly discovered...  
discovered evidence or new legal grounds for  
challenging a conviction may only arise or become  
apparent after the prisoner has already brought  
one habeas corpus application.

In recognition of this, 2244(b)(2) permits new  
claims to be raised in a second or successive  
habeas petition, see 28 MOORE'S FEDERAL PRACTICE  
671.10 [22][b][i] (Mathew Bender 3d ed.)

CITING: 4 Moore's Federal Rules Pamphlet @ 2244.2

HABEAS PETITION that was filed after an initial...  
Petition was dismissed without adjudication for  
failure to exhaust State remedies was not a SUCCESS-  
ive, Petition. CASE REMANDED. See if entitled / C.O.A.

### STATEMENT OF THE CASE

On MAY 03, I CARL ANTHONY WILSON was Pulled over for Allegedly Speeding.

I was taken to SMITH COUNTY Jail at 10.24<sup>PM</sup> for DWI.... I sit at SMITH County Jail until 12.27AM when a bunch of SherriFF Deputies took me to the Jail Infirmary and Surrounded me OFFICER JASON RAILSBACK OF THE Whitehouse, Texas Police department Read the Texas Implied Consent Form DIC 24 WARNING Prior to taking my Blood I told him that I was not going to consent to a blood Draw! the Deputies held me AND my arms they took my Blood Forcefully from me CARL ANTHONY WILSON ON May 4, 2015 2 hours and 3 minutes after we got to the SMITH County Jail. OFFICER JASON RAILSBACK TOLD the Petit Jury that he read the Texas IMPLIED CONSENT WARNINGS The DIC 24 WARNINGS Prior to the taking of my Blood that I therefore Consented to the Blood Draw. I Did not Consent to the Blood Draw! The Blood Draw was UN-REASONABLE under the Texas CONSTITUTION. ARTICLE 1 @ section 9 Any Evidence Obtained in Violation of the Texas CONSTITUTION or THE UNITED STATES CONSTITUTION SHALL NOT BE... ADMITTED AT TRIAL. See VILLARREAL V. STATE; STATE V. VILLARREAL, 475 S.W. 3d 784) Criminal Court OF APPEALS OF TEXAS. 4 STANDARD CASE!

## STATEMENT OF THE CASE

I CARL ANTHONY WILSON, was found guilty of Felony DWI, a 3rd degree Felony, that was then enhanced to a first degree Felony. I was sentenced to 60 years imprisonment, no accident involved. On January 13, 2016. By an all white Jury! I APPEALED my Case on January 13, 2016.

Judge CHRISTI KENNEDY appointed AUSTIN REEVE... JACKSON, as my APPELLATE ATTORNEY ON JANUARY 13, 2016. I wrote MR. JACKSON A LETTER from Prison I instructed him that -there was no Consent or Warrant for them to take my Blood!

I ASKED MR. JACKSON to file a FOURTH AMENDMENT Claim on Direct APPEAL he did -not!

On the Initial writ of Habeas Corpus Article 11.07 I filed Ineffective assistance of Counsel on MR. JACKSON.

The Indictment the Charging STATUTE "49.04" ARTICLE: 49.04 ANNOTATED STATUTE, TEX. Penal Code Section 49.04. IMPLIED - Consent and mandatory Blood DRAW PROVISIONS, WARRANTLESS BLOOD DRAWS!

VIOLATES the BIRCHFIELD VS. NORTH DAKOTA, 579 U.S. 438 OPINION JUNE 23, 2016. I was already in DIRECT APPEAL, my Case APPLIES to BIRCHFIELD? 579 U.S. 438 \*136 S.Ct. 2160, 195 L.Ed. 2d 560 (2016 U.S. LEXIS 4058); CERT. GRANTED CASE REVERSED. Vacated

**REASONS FOR GRANTING THE PETITION**

**JURISDICTION ON THE WRIT OF CERTIORARI**  
**SUPREME COURT RULE-10 (C)**

TEXAS COURT OF CRIMINAL APPEALS OF TEXAS has  
Decided AN Important Federal Question in a way  
that CONFLICTS with RELEVANT decisions of the  
UNITED STATES SUPREME COURT, Contrary to Clause

See *BIRCHFIELD VS. NORTH DAKOTA*, 579 U.S. 438\*136 S.Ct.  
2160, 195 L.Ed. 2d 5601 JUNE 23, 2016

IMPLIED Consent. A Breath test may be taken  
Incident to Lawful arrests for suspected DRUNK  
DRIVING. But Not warrantless BLOOD tests  
incident to Lawful arrests for suspected drunk  
Driving. My Blood was taken at 12:27 AM 2 Hours  
and 3 minutes after I was taken to the SMITH  
County Jail in TYLER, TEXAS.

My Conviction was not Final when the SUPREME  
COURT OF THE UNITED STATES ANNOUNCED the OPINION  
IN *BIRCHFIELD*. 28 U.S.C. 2254 (e)(2) (A)(i)

The Court shall not hold an evidentiary hearing on the  
Claim unless the applicant shows that -

(A) The Claim relies on -

(i) a new rule of Constitutional Law, made Retroactive  
to Cases on Collateral review by the SUPREME COURT,  
That was previously unavailable;

On MARCH 15, 2022 the CLAIMS were Presented to the  
Convicting Court, the decision of the Court, State  
Court violates Federal statutes and SUPREME COURT

(S) PRECEDENTS the 114<sup>TH</sup> District Court said I did  
Not meet the Burden. 5 Presiding Judge Austin JACKSON,

ON APRIL 20, 2020 while still in appeal, I was  
Diagnosed as -an, ANEMIC, at the O.B. ELLIS UNIT  
ANEMIA: I Have a reduction in the Hemoglobin  
OF Red Blood Cells with Conseq. DEFICIENCY OF  
Oxygen, Leading to weakness and PALLOR, SKIN.  
ON MAY 3, 2015 before doing the walk and turn  
I Told Officer Railsback that I was in a medi-  
CAL, State that I had-had Surgery on my HEAD  
THIS is the testimony Provided by RAILSBACK on  
the witness stand he stated that I told him  
but he said that the sobriety test was his sub-  
jective! he said that I failed it but you  
Can't see where I failed the test, officer...  
RAILSBACK Stated on the witness stand that  
he did-not detect INTOXICATION IN MY EYES,  
he stated also on the witness that I TOLD  
him I said I would take A BREATH LYZER TEST,  
But he said that he wanted a BLOOD SAMPLE  
I TOLD HIM they'RE NOT going to STICK ME  
with a NEEDLE! But they did stick me and took  
TWO VIALS OF MY BLOOD. THEY VIOLATED MY BODY  
AND MY CIVIL AND MY CONSTITUTIONAL RIGHTS  
WHERE VIOLATED. ALL THESE CLAIMS ARE Supported,  
By the trial RECORD. See trial Record;  
I wanted NOBODY too, know that I'm AN  
ANEMIC, OR have ANEMIA. I'm the only one  
that KNEW that I'm ANEMIC. NOT NOW THOUGH!

**CONCLUSION**

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Paul Anthony Wilson

Date: DECEMBER 9, 2022