

JUN 30 2023

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No. 22-7206

IN THE
SUPREME COURT OF THE UNITED STATES

Dennis Hood, Pro se -- PETITIONER

vs

Bobby Lumpkin -- RESPONDENT(S)

ON PETITION FOR A REHEARING TO

The Supreme Court of the United States

PETITION FOR REHEARING

Dennis Hood, TDCJ-CID #369033

ALLRED UNIT; 2101 FM 369 North

IOWA PARK, TEXAS 76367-6599

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ORIGINAL

LIST OF PARTIES

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RELATED CASES

- * Hood v. Lumpkin, No. 22-7206, U.S. Supreme Court.
Order entered June 05, 2023.
- * Hood v. Lumpkin, No. 22-10067, U.S. Court of Appeals
for the Fifth Circuit. Judgment entered Sept. 12, 2022.
- * Hood v. Lumpkin, No. 2:19-CV-0102, U.S. District Court
for the Northen District of Texas. Judgment entered
December 29, 2021.
- * Ex parte Hood, Trial Court No. W-22,513-03-B-WR; Texas
Court of Criminal Appeals No. WR-13,498-08. Order entered
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JURISDICTION

The date on which the United States Supreme Court decided my petition for a writ of certiorari was June 5, 2023.

The purpose of the federal judiciary is to interpret the Constitution and laws of the United States, as well as state laws in cases properly brought in federal court. See NLRB v. Noel Canning, 573 U.S. 513, 525, 134 S.Ct. 2550, 189 L.Ed.2d 538 (2014) (citing *Marbury v. Madison*, 5 U.S. 137, 1 Cranch 137, 177, 2 L.Ed. 60 (1803)).

The jurisdiction of this Court is invoked under 28 U.S.C. Section 1254(1). See also Rule 44, Rehearing.

VI

AMENDMENTS TO THE UNITED STATES CONSTITUTION

Amendment V

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or on the Militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process - of law; nor shall private property be taken for public use, without just compensation.

Amendment XIV

Section 1. All persons 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 the laws.

IN THE
SUPREME COURT OF THE UNITED STATES

Dennis Hood,

Petitioner,

v.

Case No. _____

Bobby Lumpkin, Director,
TDCJ/CID,

Respondent.

PETITION FOR A REHEARING

On March 31, 2023, Petitioner filed a petition for a writ of certiorari and on April 4, 2023, was docketed in Case no. 22-7206.

According to Supreme Court Rule 44.2, the grounds on which Petitioner may petition the Court shall be limited to intervening circumstances of a substantial or controlling effect or to other substantial grounds not previously presented.

The purpose of the federal judiciary is to interpret the Constitution and laws of the United States, as well as state laws in cases properly brought in federal court. See *NLRB v. Noel Canning*, 573 U.S. 513, 525, 134 S.Ct. 2550, 189 L.Ed.2d 538 (2014)(citing *Marbury v. Madison*, 5 U.S. 137, 1 Cranch 137, 177, 2 L.Ed. 60 (1803)).

Petitioner presents the following grounds below and respectfully request the Court to use its supervisory power over the lower court by intervening in this particular case:

Ground no. 1: "Petitioner was denied due process in cause 45,506-B, because cause 22,513-B has not been calculated 'cease to oper-



ate' in order to begin serving cause 45,506-B." See Petitioner's petition for a writ of certiorari, pages 9 thru 16, and exhibits therein. Once Petitioner had served the conviction and sentence in cause no. 22,513-B, under TDCJ-CID no. 369033, [DAY-FOR-DAY] in its entirety, fully completed by the term of the trial court, as having served the 30 year sentence [DAY-FOR-DAY], then according to the Texas Government Code section 501.016. Discharge or Release Papers; Release Date.

(a) The Department shall prepare and provide an inmate with the inmate's discharge or release papers when the inmate is entitled to be discharged or to be released on parole, mandatory supervision, or conditional pardon. The papers must be dated and signed by the officer preparing the papers and bear the seal of the department. The papers must contain:

- (1) The inmate's name;
- (2) A statement of the offense or offenses for which the inmate was sentenced;
- (3) The date on which the defendant was sentenced and the length of the sentence;
- (4) The name of the county in which the inmate was sentenced;
- (5) The amount of calendar time the inmate actually served;
- (6) A statement of any trade learned by the inmate and the inmate's proficiency at that trade; and
- (7) The physical description of the inmate, as far as practicable.

(b) If the release date of an inmate occurs on a Saturday, Sun-

day, or legal holiday, the department may release the inmate on the preceding workday.

When sentences involving both pre- and post 1987 offenses are stacked, the savings clause relating to former Tex. Code Crim. Proc. Ann. art. 42.18, § 8(d) would operate in a straightforward fashion to treat those sentences as one unit under prior law for the purpose of determining parole eligibility and for determining when the sentences discharge. See Petitioner's petition for a writ of certiorari, page 10 and any exhibits therein. One thing to be noted is the fact that the Respondent's citing of *Ex parte Forward*, 258 S.W.3d at 155, regarding the "sentence discharge date," is an inaccurate use of the word "sentence," because it should have not been used in the singular, but more accurate in the plural which is the proper citing in the case law, to reflect that it is cited in the plural to include both sentences as in this particular case regarding both sentences in cause 22,513-B and cause 45,506-B, which was ordered by the trial court to run consecutively. See Petitioner's petition for a writ of certiorari, Appendix - N. [T]his Petitioner has steady been denied due process and equal protection of law because of the way in which the Respondent want to play on "words" and phrases." According to the Texas Government Code, section 508.150(b): **For the purposes of Article 42.08, Code of Criminal Procedure, the judgment and sentence of an inmate sentenced for a felony, other than the last sentence in a series of consecutive sentences, cease to operate:** (1) when the actual calendar time served by the inmate equals the sentence im-

posed by the court;... (c) A parole panel may not: (1) consider consecutive sentences as a single sentence for purposes of parole; ... [T]his Petitioner was denied due process in cause 45,506-B, because cause 22,513-B, has not been calculated "cease to operate," in order to begin serving cause 45,506-B. On October 04(01), 1982 to January 22, 1990, Petitioner was incarcerated in cause 22,513-B for burglary of a habitation and was sentenced to thirty years. From January 22, 1990, to January 27, 1995, Petitioner was on Mandatory Supervision. While on Mandatory Supervision under TDCJ-CID #369033, Petitioner was arrested on November 27, 1994, for aggravated sexual assault of a child and released on bond the next day (i.e. 28th). On March 21, 1995, Petitioner's Mandatory Supervision was revoked under TDCJ-CID #369033 (i.e. 22,513-B) and from the original indictment in cause 34,455-B (i.e. November 17, 1994), and upto October 04(01), 2017, Petitioner has served - the thirty year sentence in cause 22,513-B, out of Potter county, Texas, under TDCJ-CID #369033, ["DAY-FOR-DAY"], in its entirety, that judgment and sentence has been completed, serve[d] in full. There is nothing left to be serve[d] on that particular sentence. See Petitioner's petition for a writ of certiorari, pages 11 - 14 and any exhibits therein. According to Tex. Gov't Code 508.150(b) this Petitioner has served the thirty year judgment and sentence in cause 22,513-B, under TDCJ-CID #369033, ["DAY-FOR-DAY"], there is [no] judgment or sentence to be served under the above numbers in cause 22,513-B or TDCJ-CID #369033, which should have "ceased to operate," on October 04(01), 2017. The conviction is [DEAD].

We are unaware of any Texas statute or regulation which at any relevant time authorized the Texas Department of Criminal Justice or any of its divisions or the Board of Pardons and Paroles to deny a discharge certificate to one who had completed his sentence (or sentences) or which granted discretion to issue such a certificate to some who had completed their sentence (or sentences) or their term of parole but refuse to issue same to others who had done so. Tex. Gov't Code § 501.016 as in effect now and at the time [t]his Petitioner discharge[d] his conviction and sentence in cause 22,513-B, under TDCJ-CID #369033 on October 04(01), 2017, provides that the Texas Department of Criminal Justice "shall prepare and provide an inmate with the inmate's discharge or release papers when the inmate is entitled to be discharged or released on parole, mandatory supervision, or conditional pardon." It specifies what "the papers must contain." We are aware of - no other Texas statute governing or providing for the issuance of... such certificates of discharge or papers to inmates of the Texas Department of Criminal Justice or those who have been confined in or paroled from it. See United States v. Huff, 2004 U.S.App.LEXIS 9374, at p. 4, 370 F.3d 454, 457 (5th Cir. 2004). Although, Huff dealt with an issue of having his civil rights restored, however, Tex. Gov't Code § 501.016, can equal applied, can equally be applied to [t]his Petitioner's case regarding the fact that the his conviction and sentence in cause 22,513-B, under TDCJ-CID #369033 has been discharge[d] [DAY-FOR-DAY] as of October 04(01), 2017, which said cause and TDCJ-CID numbers should have "ceased to operate" and Petitioner should have received his discharge papers

no later than October 05, 2017. However, again, this Petitioner has been denied due process and equal protection of law under the 14th Amendment to the U.S. Constitution. Once this Petitioner has served the conviction and sentence in cause 22,513-B, under TDCJ-CID #369033[DAY-FOR-DAY], fully discharge[d], then, the liberty interest "kicked in" according to Tex. Gov't Codes 501.016 and 508.150(b)(1). Please see Petitioner's petition for a writ of certiorari, page 16. See also, *Calhoun v. New York State Division of Parole Officers*, 999 F.2d 647, 653 (2nd Cir. 1993) (Liberty interest in release upon expiration of maximum term of imprisonment); *Francis v. Fiacco*, 942 F.3d 126, 142, 2019 U.S. App. LEXIS 33664 (same); *Haygood v. Younger*, 769 F.2d 1350, 1354 (9th Circuit 1985) (citing *McNeil v. Director, Patuxent Institution*, 407 U.S. 245, 246, 32 L.Ed.2d 719, 92 S.Ct. 2083 (1972). See United States Constitution Amendments V, XIV. The Due Process Clauses are designed to protect the individual against arbitrary government action. See *Wolff v. McDonnell*, 418 U.S. 539, 558 (1974); see also *Wilkinson v. Austin*, 545 U.S. 209~~22~~, 220-24 (2005) (Due Process Clauses prohibit government from infringing on prisoner's liberty interest without due process of law). When sentences involving both pre- and post-1987 offenses are stacked, the savings clause relating to former Tex. Code Crim. Proc. Ann. art. 42.18, § 8(d) would operate in a straightforward fashion to treat those sentences as one unit under prior law for the purposes of determining parole eligibility and for determining when the sentences discharge. *Id.*, supra on page 3. They way in which the Respondent

has treated Petitioner's consecutive sentences under the savings clause would have a person to think that Petitioner is serving [only] one sentence and that is false. [T]his Petitioner has already served the prior sentence in cause 22,513-B, under TDCJ-CID #369033, [DAY-FOR-DAY], as of October 04(01), 2017, but the Respondent have continue to refuse to issue [Discharge Papers] for the judgment and sentence in cause #22,513-B, under TDCJ-CID #369033. *Id.*, *supra*, on page 3. Please see Petitioner's petition for a writ of certiorari, page 11 and exhibit Z(11). The treatment of the consecutive sentences by the Respondent is only for bookkeeping purposes to treat them as a single sentence ("sentence of record") doesn't necessarily means that Petitioner is a serving a single sentence. See *Ex parte Wickware*, 853 S.W.2d 571, 574 (Tex.Ct.Crim.App. 1993). Therefore, Petitioner's conviction in cause 22,513-B, under TDCJ-CID #369033, is still alive and active because those two numbers have [not] been discharge[d]. *Id.*, Thereby, the Respondent is steady denying this Petitioner due process and equal protection of law under the 14th Amendment to the U.S. Constitution. [T]his Petitioner was not time-barred for complaining about a conviction and sentence under the two numbers mentioned above not before, but after the conviction and sentence regarding the prior conviction had served, completed, and fully discharge[d] on October 04(01), 2017. The U.S. Supreme Court should rehear Petitioner's petition for a writ of certiorari and intervene not only on Petitioner's behalf regarding the circumstances of a substantial effect, but others as well especially here in the TDCJ-CID system to curtail corruption[].

[T]his Petitioner have a liberty interest in having his prior conviction and sentence in cause 22,513-B, under TDCJ-Cid #369033 terminated from the TDCJ-CID bookkeeping, records and/or files. Petitioner have a constitutional right under - the 14th Amendment to due process and equal protection of law. See Calhoun v. New York State Division of Parole Officers, 999 F.2d-647, 653 (2nd Cir. 1993) (Liberty interest in release upon expiration of maximum term of imprisonment); see also Francis v. Fiacco, 942 F.3d 126, 142 (2nd Cir. 2019) (same); Haygood v. Yonger, 769 F.2d 1350, 1354 (9th Cir. 1985) (same); Cochran v. Buss, 381 F.3d 637, 639 (7th Cir. 2004) (Liberty interest in good time credits).

Ground no. 2: "Petitioner has been punished multiple times for a conviction and sentence that has been served [DAY-FOR-DAY] which is in violation of the Double Jeopardy Clause of the 5th Amendment to the United States Constitution."

On November 27, 1994, while on Mandatory Supervision in cause 22,513-B, under TDCJ-CID #369033, Petitioner was arrested in cause 34,455-B, and Mandatory Supervision was revoked on the 21st of March, 1995, for which said indictment was an fraudulent instrument that wasn't passed by any grand jury. On July 9 thru 10, 1996, Petitioner went to his first jury trial and was sentenced to serve 65 years in the TDCJ-CID. The trial court later falsified the judgment and sentence and TDCJ-CID falsified their record to reflect that Petitioner was serving a "stacked" sentence of 95 years including the prior 30 year sentence in cause

22,513-B, under TDCJ-CID #369033. On April 29, 1997, Petitioner's conviction was reversed and remanded for a new trial. On July 02, 1997, two weeks after the mandate was filed, Petitioner was re-indictment in cause 37,877-B with two enhancement paragraphs included in the re-indictment. The reason given by the District Attorney's office in Potter County, Texas, was that the it was a "mistake" not to have included the enhancements in the original cause 34,455-B, was an "oversight," which Petitioner found later in 2006, that cause 37,877-B, was withheld and another person signed the re-indictment. On March 01, 2001, Petitioner was brought up for parole under TDCJ-CID #369033, under cause 22,513-B, which Petitioner refused the interview. So, the Respondent by their bookkeeping, records and/or files, keep "stacked", kept the [illegal] "stacked" order in place for over five and one half years, [be]cause this Petitioner refused their parole interview under both TDCJ-CID #369033 and cause 22,513-B. On December 19, 2001, Petitioner filed a writ of madamus to be bench warrant in cause 37,877-B, to return to Potter County, Texas. On June 25, 2002, Petitioner again was re-indicted in cause 45,506-B, again, making false statements about the previous indictment, but this time Petitioner was handed the original re-indictment in a cause 45,506-B which was forged and signed in ["blue-ink"] that was pawned off as a copy. On December 16 thru 18, 2002, Petitioner went to his second jury trial and was sentenced to serve a "life" sentence consecutive to Petitioner's prior sentence in cause 22,513-B, which was also included in the enhancements for

which this Petitioner was given the consecutive life sentence. On October 04(01), 2017, [t]his Petitioner has served the prior 30 year sentence in cause 22,513-B, [DAY-FOR-DAY. On October 03, 2022, the Respondent again brought Petitioner up for parole under TDCJ-CID #369033, which Petitioner refused its proposition for parole which Petitioner is sure would have been ["GRANTED"] because the Respondent and its agencies will not cease until they have Petitioner's signature for parole under TDCJ-CID #369033 which they don't care about the conviction in cause 22,513-B> or any other conviction, they want my signature on that document as a sign off to relieve the District Attorney's office of corruption and obstruction of justice. [T]his Petitioner's "life" is in danger of [DEATH] for as long as Petitioner stay in this system. [T]his Petitioner has been punished multiple time under TDCJ-CID #369033. [T]his Petitioner has served TDCJ-CID #369033 ["DAY-FOR-DAY"], yet, the Respondent refuse to relinquish their control over TDCJ-CID #369033. [T]his Petitioner has been punished over and over again regarding TDCJ-CID #369033, knowing that Petitioner have a constitutional right under the 5th and 14th Amendments to have his conviction and sentence in cause 22,513-B and TDCJ-CID #369033, discharged according to the Texas Government Code §§ 501.016 and 508.150(b)(1). The Respondent has over and over again violated Petitioner's right to due process and equal protection of law regarding the information herein, the petition for a writ of certiorari, Petitioner's certificate of a appealability, federal and state writ of habeas corpus on filed.

The U.S. Supreme Court should rehear Petitioner's petition for a writ of certiorari and intervene not only on Petitioner's behalf regarding the circumstances of a substantial effect, but other inmates as well who may be going through similar situation for which there is no other case like this one Being presented.

The Double Jeopardy Clause of the Fifth Amendment states that no person shall "be subject for the same offense to be twice put in jeopardy of life or limb." The Clause protects against: (1) a second prosecution for the same offense after an acquittal; (2) a second prosecution for the same offense after a conviction; and (3) multiple punishments for the same offense.

The third protection is dispositive of this particular case for which Petitioner could [not] find one case whether federal or state that would be exactly on point. However, Petitioner did find the cases below which may give the Court some kind of guidance regarding this very unique case. See *Jones v. Thomas*, 491-U.S. 376, 381-383(1989) (no double jeopardy violation and consistent with legislative intent where court credited time served for vacated attempted robbery conviction against longer sentence for felony murder), and cases cited therein.; *Moor v. Palmer*, 603 F.3d 658, 660 (9th Cir. 2010)(no double jeopardy bar to revocation and subsequent denial of parole for same parole violation becauswe revocation merely continuation of original punishment), and cases cited therein; *U.S. v. McInnis*, 429 F.3d 1, 5 (1st Cir. 2005) (Double Jeopardy Clause inapplicable because sanctions after revocation of supervised release are part of penalty for

initial offense), and cases cited therein; U.S. v. Carlton, 442 F. 3d 802, 809 (2nd Cir. 2006) (same). The primary thrust of the Double Jeopardy Clause is to protect a defendant from multiple punishments or successive prosecutions for the same offense. North Carolina v. Pearce, 395 U.S. 711, 717, 23 L.Ed.2d 656, 89 S.Ct. 2072 (1969). "Where there is no threat of either multiple punishment or successive prosecutions, the Double Jeopardy Clause is not offended." U.S. v. Wilson, 420 U.S. 332, 344, 43 L. Ed.2d 232, 95 S.Ct. 1013 (1975). U.S. v. Silvers, 90 F.3d 95, 99-101 (4th Cir. 1996). The Double Jeopardy Clause of the U.S. Const. Amend. V bars multiple punishment, i.e. punishment in excess of that permitted by law. The Double Jeopardy Clause respects the defendant's "legitimate expectations" as to the length of his sentence. U.S. v. Jones, 722 F.2d 632, 638-639 (11th Cir. 1983), and cases cited therein. Increasing a legal sentence that already is fully served would violate the Double Jeopardy Clause of United States Const. amend. V. The Double Jeopardy Clause protects against multiple punishments for the same offense. U.S. v. Arrellano-Rios, 799 F.2d 520, 524-525 (9th Cir. 1986), and cases cited therein. Although, there is not another case known to Petitioner similar to the one at hand and if, the U.S. Supreme Court doesn't use its supervisory power to curtail the Respondent's corruption and obstruction of justice regarding this particular case, then, "leeway" will be their green light to continue to violate this Petitioner's Constitutional Rights which calls for the Court - to intervene because the circumstances are of a substantial or con-

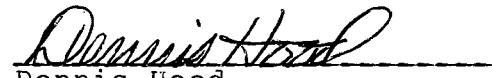
trolling effect and the fact that Petitioner had to raise this substantial ground of Double Jeopardy not previously presented[].

As [t]his Petitioner have stated in previous filing that it is very difficult for Petitioner who tries to stay within the Rules of the Court by being concise and brief with my filings[].

PRAYER

WHEREFORE, PREMISES CONSIDERED, [t]his Petitioner, "Hood," prays that the Court will rehear Petitioner's petition for a writ of certiorari, and that said petition be GRANTED.

Respectfully submitted,



Dennis Hood
Petitioner, Pro se
5th Cir. No. 22-10067
Sup. Ct. No. 22-7206

PETITION FOR REHEARING

IN THE
SUPREME COURT OF THE UNITED STATES

Dennis Hood,

Petitioner,

v.

Bobby Lumpkin, Director,
TDCJ/CID,

Respondent.

Case No. _____

**PETITIONER'S CERTIFICATION OF A
PARTY UNREPRESENTED BY COUNSEL**

As required by Supreme Court Rule 44.2, I certify that the petition for a rehearing is restricted to the grounds specified in this paragraph and it is presented in good faith and not for delay or any improper purpose except that Petitioner's petition for a writ of certiorari be reheard.

I declare under penalty of perjury that the foregoing is true and correct. See 28 U.S.C. § 1746.

EXECUTED ON: June 29, 2023.


Dennis Hood
Petitioner, Pro se
5th Cir. No. 22-10067
Sup. Ct. No. 22-7206