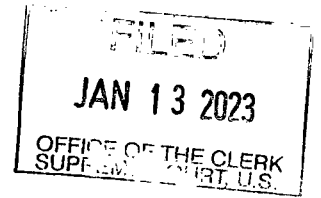


No. 22-7384

ORIGINAL



IN THE
SUPREME COURT OF THE UNITED STATES

In re BEIDIE JAMES JACKSON — PETITIONER
(Your Name)

vs.

BOBBY LUMPKIN — RESPONDENT(S)

EXTRAORDINARY
ON PETITION FOR A WRIT OF MANDAMUS TO

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

PETITION FOR WRIT OF CERTIORARI

BEIDIE JAMES JACKSON
(Your Name)

Michael Unit - 2664 FM 2054
(Address)

Tennessee Colony Tx 75886-0001
(City, State, Zip Code)

Unit
(Phone Number)

QUESTION PRESENTED

1. Can the United States Court of Appeals for the 5th Circuit refuse to address the issue of abstention presented by the U.S. district court's March 8, 2022 dismissal after state has refused constitutionally protected hearing that would show state has ~~no~~ jurisdiction to hold criminal proceedings against Petitioner?

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

In state district court Cause Nos. 69111-D and 77,472-D in Potter County, Texas;

Cause No. 3:21-cv-0031 in Southern District of Texas;

Case No. 22-40220 in 5th Circuit Court of Appeals;

In re Reidie James Jackson # 22-40738 in 5th Circuit.

TABLE OF AUTHORITIES CITED

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1.) Younger v. Harris, 401 U.S. 37 (1971)	4, 5, 6
2.) McCarthy v. United States, 394 U.S. 459, 466 (1969)	7
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4.) Chandler v. Judicial Council for 10th Cir., 398 U.S. 74, 86 (1970)	8
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6.) United States v. Halper, 371 U.S. 18, 20 (1962)	8

STATUTES AND RULES

- 1.2 28 USC § 2241 (1)(3)
- 2.) Tx Code of Crim Proc. art 11.08

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IN THE
SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

~~Extraordinary~~
Petitioner respectfully prays that a writ of ~~mandamus~~ 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 Held by 5th Cir.

- ☐ reported at Cause #22-40220; 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 Also held by 5th Cir.

- ☐ reported at Cause No. 3:21-cv-31; 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 ~~Denied~~ Denied w/o written order pet. for mandamus

- ☐ reported at # See Exhibit-A of Orig. Pet.; or, WR-75,223-07
☐ has been designated for publication but is not yet reported; or, WR-75,223-08
☐ is unpublished.

The opinion of the No opinions, pre-trial issues 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 Refused to address pre trial abstention

☐ 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: held my mail a month, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of ~~certiorari~~ ^{mandamus} 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).
28 USC. § 1651(a).

☐ For cases from **state courts**:

The date on which the highest state court decided my case was Dec. 8, 2020.
A copy of that decision appears at Appendix _____. July, August, 2020.

☐ A timely petition for rehearing was thereafter denied on the following date: N/A, 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 N/A (date) on N/A (date) in Application No. ____ A ____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).
28 USC § 1651(a)

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

- 1.) Texas Code Criminal Procedure article 11.08.
- 2.) Texas Constitution art. 1819 Due Course.
- 3.) Texas Penal Code § 12.42.
- 4.) U.S. Constitution Amendment 14 Due Process Clause.
- 5.) 28 U.S.C. § 2241 (a)(2)
- 6.) All Writs Act, 28 U.S.C. § 1651(a)

I. PROCEDURAL HISTORY

State procedural background: Petitioner is a state prisoner who was sentenced to a (42) year sentence for aggravated robbery and (30) years for burglary of a habitation after an eight-day trial in Matagorda County, Texas. He has been incarcerated for (21) years-plus. (see Exhibit-C, hereto attached)

The indictments in both of the above-stated cases were Cause Numbers 02-E-136 (Burglary) and 02-E-137 (Robbery), out of the 130th Judicial District Court; both of which he has maintained his innocence. Both of these cases had enhancement paragraphs containing Cause Nos. 98-J-225 and 98-J-226, also out of the 130th Judicial District.

In 2014 Petitioner was indicted for Assault of a Public Servant, one Matthew Sneed, subsequent to filing his 42 USC § 1983 against Mr. Sneed in Cause Number 2:14-cv-0035 in U.S. District Court Amarillo Division. The Assault case was lodged against Petitioner in Potter County, Texas and carried the Cause Number 6911-D, the enhancement paragraphs also containing the Cause Nos. 98-J-225 and 98-J-226, the alleged breached contracts, purporting to enhance under the state's recidivism statute in Texas Penal Code § 12.42. (See Tx Penal Code § 12.42; and Texas Code of Criminal Procedure article 1.14 (b).)

Petitioner filed a meritorious claim under Texas Code of Criminal Procedure Article 11.08 pre-trial application for a writ of habeas corpus in late Summer 2016 or early Autumn 2016 alleging, inter alia, that his U.S. Constitutional rights had been violated under the 14th Amendment. (see Exhibit-B ## 3, 4, and 59, hereto attached.) The state trial court began, but never completed, a hearing regarding the art. 11.08 pre-trial application for a writ of habeas corpus.

The presiding state trial judge admitted in open court his intention to provide relief for the claims, though he did not do so. After years of waiting Petitioner filed multiple applications to the Court of Criminal Appeals requesting it to instruct the trial court to perform his ministerial duties, all to no avail. (see Court Crm. App. case # 77,223-07, # 77,223-08.)

On February 4, 2021 Petitioner filed a federal habeas corpus in Amarillo against use of those convictions in #98-J-225 and #98-J-226 and against the state High Court for refusing to instruct on ministerial duties. The Federal district court ordered an answer, the state answered in avoidance, then the case was abstained to under Younger v. Harris 401 U.S. 37 (1971). (see Exhibit-B ## 18, 41, 42, dist. ct's Docket Sheet.)

Petitioner initially filed case # 22-40220 and the 5th Cir. refused to address the abstention. Then Petitioner applied for a writ of mandamus, the 5th Cir. still will not address

the abstention. (see Exhibit A)

II. FACTS

- 1.) Petitioner is indigent and requests this Court obtain the application for a writ of mandamus filed in the 5th Circuit under case # 22-40738 as Petitioner is unable to reproduce said, or any other documents that are in that court.
- 2.) It is a fact that Petitioner is presently being restrained in violation of his U.S. Constitutional rights.
- 3.) It is a fact that his present custody is illegal as demonstrated by the relevant record.
- 4.) It is a fact that Petitioner has no adequate remedy at law. This is so for compounded reasons: ① The state by and through its High Court refuses to instruct its subordinate courts to perform ministerial duties, as evidenced by its denials of Petitioner's requests to do so, and its denials of his request to take up original jurisdiction on the issues presented; ② this issue is nearly a decade old, the U.S. district court abstained citing an ongoing criminal proceeding in the state and an opportunity to raise his claims during that time, though it is clear the state is not going to provide any adequate opportunity to present the claims the High Court denied relief on in case # 77,223-07 and # 77,223-08, in 2020, (see Ex-B # 32); ③ the U.S. district court made a clearly erroneous abstention under *Younger v. Harris*, 401 U.S. 37, and dismissed any and every attempt by Petitioner at having arbitrary decision vacated; ④ the dismissal is without prejudice and, therefore, cannot be appealed by ordinary appeal, as pointed out in case law. The Petitioner's application in case # 22-40738 filed in October 2022 addresses the single issue of abstention - an issue that had already been before the 5th Circuit in case # 22-40220 in April 2022/May 2022 - that the state does not even object to, evidenced by its decision not to file a response to Petitioner's application for a writ of mandamus.
- 5.) It is a fact that Petitioner is classified as Restrictive Housing and is illegally restrained (23)-(24) hours every day inside an 8 feet high 6ft wide 12ft long cell that leaks copious amounts of water when it rains, has multiple infestations of pests that bite and carry diseases, such as, rats, mites, ants, spiders, knots, mosquitoes.
- 6.) It is a fact that Petitioner is and will further suffer irreparable injuries without this Court's intervention because the courts below are just ignoring Petitioner when he makes non-frivolous constitutional claims, or dismissing legitimate claims for obviously arbitrary reasons as in the instant case.

7.) It is a fact that Petitioner has applied for bond-release pending the outcome of the disposition of the case to no avail.

III.

STATEMENT OF THE CASE

The statement of [this] case to [this] court is this: Petitioner meritorious claims under the Fourteenth Amendment to the United States Constitution are being illegally obstructed at each level below. The abstention by the U.S. district Court under *Younger v. Harris*, *supra*, is not only erroneous, arbitrary and unreasonable, but it is not final as would be necessary to prevail on a traditional appeal, as Petitioner discovered post-error in the 5th Circuit case #22-40220.

That appeal, or, more properly, application for a certificate of appealability held the question against the abstention but was outright ignored by the Justice Carl Stewart in his briefly worded memorandum in case #22-40220. (Please refer to the Court's record for the Justice's opinion because Petitioner did erroneously mail his first petition for this Court to the 5th Circuit and it has not been returned.)

Not only did the Justice Stewart fail to address the elephant on the airplane, but when Petitioner made motion to have that decision read and reviewed by a panel, Justice Stewart intercepted the correspondence, answered the appeal against his decision himself by affirming his decision, refusing to allow the three panel committee any opportunity for review, and conclusively depriving this Court of its jurisdiction to review the abstention issue.

The abstention is clearly erroneous and had been pending before the 5th Circuit Court of Appeals for six months when, Petitioner filed his application for a writ of mandamus against the district court's abstention and motion for release on bond pending disposition of the case. (Please review the Courts record.)

With the blatant disregard for Petitioner's rights demonstrated during the course of this whole case, Petitioner believes wholeheartedly that the lower courts do not ever intend to review the case properly and no care if Petitioner ever resolves his claims.

Petitioner has tried all available remedies up to this point and there are not any meaningful remedies at law left to try. Petitioner is being held in prison illegally due to the illegal restraints on his access. This Court's answer is the only one left.

IV. REASONS FOR GRANTING THE WRIT

Q1: How will the issuance of the writ of mandamus ~~be~~ in aid of this Court's appellate jurisdiction? : The courts below have, and do, fail in their duty to carry out Supreme Court judgments, so if this Court issues a judgment/instruction in the writ of mandamus such will compel the courts below to obey the Court's decisions, stop wasting judicial resources, effect a more reliable, meaningful court process so that those like Petitioner would be able to obtain just, fair hearings.

An issuance here would open a case so this Court may closely review the recalcitrant actions of the lower courts herein complained of, creating a record of the acts and or omissions that deprive the Court of its appellate jurisdiction. 28 U.S.C. §1651 allows this Court to create the necessary relief to make adherence to the law as it was when the violation occurred expressly clear.

Below, the state trial court defiantly refused relief that violated McCarthy v. United States, 394 U.S. 459, 466 (1969) and Wolff v. McDonnell, 418 U.S. 539, 558 (1974), as well did the Court of Crim. Appeals for refusing to instruct the trial court to hear the issues at bar, the breach of contracts that would have provided significant opportunity at ultimate freedom; instead we are here discussing "why?" the courts below refuse Petitioner a constitutionally adequate hearing on the breached contracts.

Further, the U.S. district court, abstained in violation of a reasonable application of Younger v. Harris, 401 U.S. 37 and its own order to answer's summation; issuance of the writ here will aid this Court's jurisdiction as it will not, or should not have to correct these lower courts on abstention issues any time soon.

This Court's appellate jurisdiction requires specific performance on the breached contracts at their inception, issuance of the writ will cause execution of the Court's decrees and instructions on such matters. Why? Because the federal district court abstained from using federal authority pending conclusions of state court criminal proceedings that the state has no authority to finish.

This Court's appellate jurisdiction lies not only in what it can do in the instant case, but also what it has done in prior decisions. The lower courts not obeying the Court's rulings deprives the Court of its lawful jurisdiction similarly, issuing writ here will certainly aid in the Court's jurisdiction.

Q2: What exceptional circumstances exist warranting exercise of the Court's discretionary powers? : The exceptional circumstances that exist here are various and readily observed in the record and associated facts stated by Petitioner in the prior petitions. Presently Petitioner is being barred from the substantial relief he is entitled to by law under this Court's decisions. The state court received Petitioner's art. 11.08 pre-trial petition, agreed that Petitioner was entitled to relief, then refused to render judgment, as is his lawful duty. This is common enough and requires one to request mandamus relief of the state's Court of Criminal Appeals (C.C.A.), which Petitioner attempted several times to no avail. The exceptional circumstances stand out here.

There has been a tremendous amount of state and federal law instructing courts to perform their ministerial duties, so the C.C.A.'s refusal to act in any favorable way to a judge just flat out refusing to do his job is really exceptional.

There is more.

The federal district court's abstention was exceptional in that it relied on a state court proceeding that is and was without authority to proceed, to conclude before it would provide relief. Furthermore, the case has been pending (9) years — this is super-exceptional, as the only thing that stopped the case was Petitioner's lodging of his article 11.08 pre-trial application.

And the 5th Circuit has kicked Petitioner's rights around like a mildewed dirty sock in the high-school locker room. The fact that the Justices in a Court of Appeals will not address the clearly erroneous abstention made by the district court, refusing to follow this Court's established law, rules, and etiquette in dealing with habeas corpus proceedings that address important matters such as those in the instant case, freedom, is an exceptional circumstance, because the lower courts are not playing by and rules.

Q3: Why can adequate relief not be obtained in any other court? : The reason there is no available relief is, all the lower courts have denied all meaningful relief, and the 5th Circuit has refused to address the issue of abstention at all. The abstention under *Younger, supra*, is not a final order and cannot be appealed.

The record demonstrates Petitioner's diligent attempts to gain relief at each and every stage. Now, nearly a decade in this Court is his last resort. (See All Exhibits hereto attached.)

Applicable law

The All Writs Act, 28 U.S.C. § 1651(a) authorizes this Court to "issue all writs necessary or appropriate in aid" of its "respective jurisdictions and agreeable to the usages and principles of law," see 28 U.S.C. § 1651; see also Chandler v. Judicial Council of Tenth Circuit, 398 U.S. 74, 86 (1970).

Mandamus relief is an "extraordinary remedy" that is appropriate for the "exceptional circumstances" presented in the instant case. The arbitrary and unreasonable manner in which the lower courts have dealt with the instant case have left Petitioner's most important constitutional rights vulnerable to nullification. see In re Whole Women's Health, 142 S.Ct. 701, 704 (2018).

Petitioner has clear right to have his issues promptly, meaningfully heard. The Court can use the writ to rectify the district courts misapplication of this Court's decision in Younger, supra, see United States v. Haley, 371 U.S. 18, 20 (1962).

CONCLUSION

Petitioner has a clear right to have his abstention issue resolved meaningfully. This will not occur without this Court's issuance of the writ. The abstention made by the district court is clearly erroneous, the 5th Circuit's failure to address the abstention issue before them at meaningful time is a clear right being suspended erroneously by the 5th Circuit's acts and omissions against the integrity of this Court's appellate jurisdiction.

Petitioner is without adequate remedy at law, and will suffer irreparable injury without issuance of the writ.

Petitioner prays for issuance of a writ of mandamus.

Date: April 17, 2023

Respectfully submitted,
/s/ Reidie James Jackson
Reidie James Jackson #01164177
Michael Unit 2669 FM 2054
Tennessee Colony Tx 75886

CONCLUSION

The petition for a writ of ~~certiorari~~^{mandamus} should be granted.

Respectfully submitted,

Reid J. Jackson

Date: ~~February 17, 2023~~ April 17, 2023