

22-7433

No. _____

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

FILED

MAR 28 2023

OFFICE OF THE CLERK
SUPREME COURT, U.S.

Carlos Garcia — PETITIONER
(Your Name)

vs.

Bobby Lumpkin, Director — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals for the Fifth Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Carlos Garcia 02126841
(Your Name)

9601 SPUR 591
(Address)

Amarillo TX 79107-9606
(City, State, Zip Code)

806-381-7080
(Phone Number)

QUESTION(S) PRESENTED

Whether the Fifth Circuit Court of Appeals error in not granting a COA on the basis that the Petitioner was not able to argue his case without appointed counsel.

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

State v. Garcia, No. CR-16-0668, 428th District Court, Hays County Texas. Judgment entered April 3, 2017.

Garcia v. State, No. 13-17-00218-CR, WL 1388532, Texas Appeal, Corpus Christi-Edinburg. Judgment entered March 28, 2019.

Garcia v. State, No. PD-0468-19, Texas Criminal Appeal. Judgment entered August 21, 2019.

Ex Parte Garcia, No. WR-91,146-01, Texas Criminal Appeals. Judgment entered October 28, 2020.

Garcia v. Lumpkin, No. 1:21cv416, U.S. District Court for the Western District of Texas. Judgment entered July 6, 2022.

Garcia v. Lumpkin, No. 22-50664, U.S. Court of Appeals for the Fifth Circuit. Judgment entered January 27, 2023.

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TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

Del. V. Van Arsdall, 475 U.S. 673 (1986)

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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☒ is unpublished.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 B 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 January 5, 2023.

☒ 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 _____.
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

AEDPA 28 USC Section 2254

U.S. Constitution Bill of Rights 5th Amendment.

STATEMENT OF THE CASE

Petitioner was convicted on April 3, 2017, for sexual abuse of a minor. Petitioner's conviction was affirmed on direct appeal. Petitioner filed a petition for discretionary review, listing the following ground: shouldn't basic due process allow a defendant to present to a jury that a child has similar, prior sexual experiences to show a child's basis to fabricate?

The Texas Court of Criminal Appeals refused Petitioner's PDR. Petitioner filed a pro se state habeas corpus application, and was denied without written order and court hearing.

Petitioner filed his federal petition for writ of habeas corpus, listing the following question: whether due process allows a defendant to present to the jury that a child has similar, prior sexual experiences in order to show the child's basis to fabricate.

The Court denied the claim based on Petitioner's failure to argue the ground. Petitioner also filed a COA with his habeas corpus, and was denied.

Petitioner then filed a COA in the Fifth Circuit Court of Appeals, and was denied for not arguing a denial of a constitutional right.

REASONS FOR GRANTING THE PETITION

The U.S. Constitution reads "We The People Of The United States". I was not included. My rights were violated in trial. Me and every american has the right to cross-examine a witness in trial. But that right was taken from me, and no court wants to hear about it. I brought my appeal to the federal court's but instead of the court appointing a lawyer, I was expected to write like one. Therefore, making an easy decision to denied my appeals, simply because I failed to show any errors. I am not a lawyer. How do the courts expect me to write like one?

I took my case to trial because I thought there was going to be justice. I was wrong. Illegal's have more rights in this country than I do. My trial involved illegal person's to testify against me, so they can benefit getting a U-visa and avoid deportation into Mexico. Is that justice? I was born in the United States. I'm ashamed to be a U.S. Citizen.

CONCLUSION

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

Respectfully submitted,

Carlos Garcia

Date: March 28, 2023