22-7870

No. _____

FILED
JUN 26 2023
OFFICE OF THE CLERK
SUPREME COURT, U.S.

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

Jayson Neil Sparks — PETITIONER
(Your Name)

vs.

The State of Texas — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Court of Criminal Appeals of Texas
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Jayson Neil Sparks TDC# 2081577
(Your Name)

2101 Fm 369 North
(Address)

Iowa Park, Texas 76367
(City, State, Zip Code)

N/A
(Phone Number)

QUESTION(S) PRESENTED

- WHEN STATE COURT(S) FAIL TO PERFORM THEIR STATUTORY DUTY (S) ARE THEY STILL TO RECEIVE OR DO THEY FORFEIT DEFERENTIAL TREATMENT IN A FEDERAL COURTS REVIEW?

- WHERE ONE ENTITLED TO A WRIT OF HABEAS CORPUS MAKES PROPER APPLICATION FOR IT TO THE PROPER COURT HAVING JURISDICTION, SAID APPLICATION CONFORMING TO ALL STATUTORY REQUIREMENTS AND PROBABLE CAUSE BEING SHOWN, DOES OR DOES NOT SAID COURT HAVE A STATUTORY DUTY TO GRANT THE WRIT OF HABEAS CORPUS?

- IN CONSIDERATION OF THE EVIDENCE PROVIDED HEREIN WITHIN THIS APPLICATION FOR WRIT OF CERTIORARI, DID THE TRIAL COURT MERELY EXCEED ITS JURISDICTION, AND/OR ALTERNATIVELY DID THE THIRD PARTY SIGNATURE IN LIEU OF THE GRAND JURY FOREMAN'S ON THE INDICTMENT CONSTITUTE A CRIMINAL EPISODE WHEN SAID INDICTMENT WAS PRESENTED AS AUTHENTIC AND USED TO TRY AND CONVICT A CITIZEN OF THE STATE OF TEXAS- AND THE UNITED STATES- THEREBY DEPRIVING CONSTITUTIONAL SAFE GUARDS THAT ARE GUARANTEED BY BOTH THE STATE AND FEDERAL CONSTITUTIONS AND UNLAWFULLY DEPRIVING HIM OF HIS LIBERTY?

LIST OF PARTIES

[X] 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

Trial Court No. C-3-W012256-1403502-B

CCA No. WR-89,311-02 Dismissed w/o written order on 4/19/2023

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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[ ] is unpublished.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.

[X] For cases from **state courts:**

The opinion of the highest state court to review the merits appears at Appendix D to the petition and is

[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[X] 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.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

STATE:

TCCP ARTICLE 11.07, § 4 (2)-(c) - SUBSEQUENT OR SUCCESSIVE APPLICATION FOR WRIT OF HABEAS CORPUS

TCCP ART. 19A.202 - OATH OF GRAND JURORS

TCCP ART. 19A.203 - FOREPERSON

TCCP ART. 19A.204 - COURT INSTRUCTIONS

TCCP ART. 20A.051 - DUTIES OF GRAND JURY

TCCP ART. 20A.302 - PRESENTATION OF INDICTMENT

TCCP ART. 21.02 (9) - REQUISITES OF AN INDICTMENT

TCCP ART. 21.19 - DEFECTS OF FORM

VTCA GOV'T CODE 311.016(2) 1998

TEXAS CONSTITUTION ARTICLE 1.04 - DUE PROCESS: NO CITIZEN OF THIS STATE SHALL BE DEPRIVED OF LIFE, LIBERTY, ... EXCEPT BY THE DUE COURSE OF THE LAW OF THE LAND.

TEXAS CONSTITUTION ARTICLE 1.05 - RIGHTS OF ACCUSED: IN ALL CRIMINAL PROSECUTIONS... NO PERSON SHALL BE HELD TO ANSWER FOR A FELONY UNLESS ON INDICTMENT OF A GRAND JURY.

FEDERAL:

UNITED STATES CONSTITUTION AMENDMENT V: NO PERSON SHALL BE HELD TO ANSWER... UNLESS ON A PRESENTMENT OF INDICTMENT OF A GRAND JURY ... NOR BE DEPRIVED LIFE, LIBERTY... WITHOUT DUE PROCESS OF LAW.

UNITED STATES CONSTITUTION AMENDMENT XIV: ... NOR SHALL ANY STATE DEPRIVE ANY PERSON OF LIFE, LIBERTY, ... WITHOUT DUE PROCESS OF LAW; NOR DENY TO ANY PERSON WITHIN ITS JURISDICTION THE EQUAL PROTECTION OF THE LAW.

STATEMENT OF THE CASE

PETITIONER'S FAMILY SOUGHT GRAND JURY PROCEEDING AND INDICTMENT INFORMATION ON PETITIONER'S BEHALF THROUGH THE 'TEXAS PUBLIC INFORMATION ACT' AND 'FREEDOM OF INFORMATION ACT' AND IT WAS DISCOVERED UPON OBTAINING SAID INFORMATION THAT THE GRAND JURY FELONY INDICTMENT IN PETITIONER'S CASE AT BAR WAS FRAUDULENTLY PRESENTED FOR USE TO THE COURT FOR TRIAL AND CONVICTION PURPOSES ACCORDING TO THE STATE OF TEXAS LEGISLATIVELY CREATED ARTICLES DESIGNED TO ESTABLISH THE LAWFUL/ETHICAL PROCEDURE FOR THE PRESENTMENT OF A FELONY INDICTMENT TO WHICH IS NECESSARY TO SATISFY THE COURT'S JURISDICTION IN HEARING A FELONY CASE.

UPON PROPER NOTIFICATION TO THE STATE IN THE FILING OF AN ARTICLE 11.07, 4 (B)-(C) APPLICATION FOR WRIT OF HABEAS CORPUS BOTH THE TRIAL COURT AND THE COURT OF CRIMINAL APPEALS OF TEXAS HAVE REFUSED TO HONOR THEIR STATUTORY DUTY TO UPHOLD THE CONSTITUTION AND LAWS OF BOTH THE STATE AND UNITED STATES AS THEY DULY SWORE UNDER OATH TO DO WHEN TAKING OFFICE.

THE COURT OF CRIMINAL APPEALS OF TEXAS 'DISMISSED' PETITIONER'S APPLICATION FOR WRIT OF HABEAS CORPUS WITHOUT WRITTEN ORDER ON APRIL 19, 2023, TO WHICH PETITIONER TIMELY FILED HIS MOTION FOR LEAVE TO FILE DIRECT APPEAL WITH THE SUPREME COURT OF THE UNITED STATES ON MAY 4, 2023 WITH RETURN RESPONSE SPECIFYING CONSTRUED AS A WRIT OF CERTIORARI GIVING UNTIL JULY 18, 2023 FOR RESUBMISSION OF CORRECTED PETITION.

REASONS FOR GRANTING THE PETITION

THE STATE OF TEXAS ACCUSED PETITIONER OF COMMITTING A FELONY CRIME, THEN TRIED AND CONVICTED HIM IN A COURT OF LAW.

IT HAS SINCE BEEN DISCOVERED THROUGH THE DILLIGENT EFFORTS OF PETITIONER'S MOTHER THAT THE GRAND JURY INDICTMENT THAT WAS PRESENTED TO THE COURT TO SATISFY CONSTITUTIONAL, STATUTORY, AND JURISDICTIONAL ISSUE(S) WAS NOT OBTAINED IN THE METHOD PRESCRIBED BY THE TEXAS LEGISLATURE TO WHICH VIOLATED PETITIONER'S CIVIL RIGHTS UNDER TEXAS CONSTITUTION ARTICLES 1.04 - DUE PROCESS, AND 1.05 - RIGHTS OF ACCUSED, AS WELL AS THAT OF THE UNITED STATES CONSTITUTION AMENDMENTS V - INDICTMENT/DUE PROCESS, AND XIV - DUE PROCESS / EQUAL PROTECTION.

PETITIONER TIMELY BROUGHT HIS CONCERNS IN THE MANNER OF A CLAIM IN AN ARTICLE 11.07, § 4 (2)-(5) AS PRESCRIBED UNDER TEXAS LAW WITH PROOF THEREOF THAT SHOWED THAT A THIRD PARTY WHO WAS NOT AUTHORIZED TO SIGN THE FELONY INDICTMENT - OF WHICH SHARES THE SAME NAME (LAST NAME) WITH THE DISTRICT ATTORNEY - MADE FOR A FRAUDULENT RECORD OF THE COURT. NEITHER THE TRIAL COURT NOR THE COURT OF CRIMINAL APPEALS OF TEXAS WERE WILLING TO DO THEIR STATUTORY DUTY AND ADDRESS THIS FUNDAMENTAL DEFECT AT THE VERY HEART OF ETHICS IN A 'FAIR' PROCEEDING.

AN INSTRUMENT WHICH IS NOT AN INSTRUMENT OR INFORMATION UNDER TEXAS CONSTITUTIONAL ARTICLE V, § 12 WILL NOT VEST THE TRIAL COURT WITH JURISDICTION - TEX. CONST. ART. I, § 10.

IN ACCORDANCE WITH CLICK V STATE, 118 TEX CRIM 404, 407, 39 SW2d 39.41 (1931), WHICH SHEPARDIZES AS STILL GOOD CASE LAW, IT STATES: " WHERE ONE ENTITLED TO A WRIT OF HABEAS CORPUS MAKES PROPER APPLICATION FOR IT TO THE PROPER COURT HAVING JURISDICTION, SAID APPLICATION CONFORMING TO ALL STATUTORY REQUIREMENTS AND PROBABLE CAUSE BEING SHOWN, THE WRIT OF HABEAS CORPUS CANNOT BE DENIED TO THE RELATOR, FOR IT THEN BECOMES A CONSTITUTIONAL RIGHT. "

THE SUPREME COURT OF THE UNITED STATES HAS SAID ALSO IN:

JOHNSON V ZERBST, 304 US 458 (1938) - THE VIOLATION OF AN ACCUSED'S FUNDAMENTAL CONSTITUTIONAL RIGHTS DEPRIVES THE TRIAL COURT OF ITS PROPER JURISDICTION.

FAY v NOIA, 372 US 391 (1963) - A JUDGEMENT OF CONVICTION OBTAINED IN VIOLATION OF DUE PROCESS OF LAW IS VOID FOR WANT OF JURISDICTION OF THE COURT TO ENTER SUCH JUDGEMENT.

BAKER v McCollan, 443 US 137 (1979) - THE FOURTEENTH AMENDMENT DOES NOT PROTECT AGAINST ALL DEPRIVATIONS OF LIBERTY, BUT PROTECTS ONLY AGAINST DEPRIVATIONS OF LIBERTY ACCOMPLISHED WITHOUT DUE-PROCESS OF LAW - USCA CONST. AMEND. 14

EX PARTE Wilson, 114 US 417 (1885) - THE LACK OF GRAND JURY INDICTMENT MEANT THAT THE COURT HAD "EXCEEDED ITS JURISDICTION" [CITED 54 TIMES BY S.CT., 11 TIMES BY COA5, 7 TIMES BY TEXAS - (1885-2022)]

AND in Hamilton v McCotter, 772 F.2d 171 (5TH CIR 1985) @ 182 THE COURT OF APPEALS FOR THE FIFTH CIRCUIT ADDRESSES A 'FORGED INDICTMENT CLAIM' TO WHICH WOULD NOT BE DISSIMILAR TO WHAT HAS OCCURRED HERE [THIS CASE CITED 85 TIMES] - "... WE THINK THAT APPELLANT HAS RAISED THE QUESTION OF WHETHER HIS INDICTMENT WAS IN FACT RETURNED BY A GRAND JURY, AND, IF NOT, WHETHER HE WAS THEREFORE EVER PROPERLY UNDER THE STATE TRIAL COURT'S JURISDICTION..."

THE PRESENCE OF AN UNAUTHORIZED SIGNATURE (ACCORDING TO LEGISLATIVE DIRECTIVE(S) INVOLVED) DIFFERS FROM THE LACK OF A SIGNATURE - IT INVOLVES FRAUDULENT INTENT TO DECEIVE THE COURT. [CITED BY TEXAS 3 TIMES].

PETITIONER NOW FOLLOWS Ex Parte Young, 418 SW2d 824 (TEX CRIM APP 1967) TO WHERE IT STATES: "THAT UNLESS THE COURT OF CRIMINAL APPEALS GRANTS RELIEF AND ORDERS AN APPLICANT RELEASED FINAL DECISION ON HIS PETITION FOR WRIT OF HABEAS CORPUS AFTER CONVICTION IN A FELONY CASE RESTS WITH THE SUPREME COURT OF THE UNITED STATES..." (SEE ALSO: Green v Beto, 384 US 269)

IF THE RECORD IN THIS CASE IS INSUFFICIENT PETITIONER REQUESTS AN EVIDENTIARY HEARING SUCH AS DICTATED IN TOWNSEND v SAIN, 372 US 293 (1963), BUT, PETITIONER BELIEVES THAT UPON EXAMINATION OF THE FACTS OF THIS CASE AND OBSERVING THE PLAIN STATEMENT RULE SUCH AS EXPRESSED IN HARRIS v REED, 109 S.CT. 1038 (1989) THE COURT SHOULD FIND MERIT IN PETITIONER'S CLAIM ESPECIALLY SINCE PETITIONER STILL CLAIMS HIS INNOCENCE SUCH AS HE'S DONE FROM THE ONSET

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Jayson Neil Sparks

Date: June 13, 2023