

23-5024
No. _____

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES

FILED
JUN 19 2023
OFFICE OF THE CLERK
SUPREME COURT, U.S.

WALTER CHARLES LINK — PETITIONER
(Your Name)

vs.

THE STATE OF TEXAS — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

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

PETITION FOR WRIT OF CERTIORARI

WALTER CHARLES LINK
(Your Name)

3060 FM 3514
(Address)

Beaumont, Texas 77705
(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

1. Did the state of Texas err in failing to prove its Brook's notice allegations beyond a reasonable doubt?
2. Did the state of Texas illegally sentence Petitioner in allowing insufficient evidence to support the State's implied finding's?
3. Did the state of Texas subject Petitioner to violations of the United state's constitution, 5th And 14th, Amendment's .U.S.C.?
4. Was Petitioner afforded Equal Protections and Due Process Guaranteed by the United state's constitution?

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:

THE COURT OF CRIMINAL APPEALS OF THE STATE OF TEXAS
P.O. BOX 12308, CAPITOL STATION, AUSTIN, TEXAS 78711.

RELATED CASES

HOPKINS V. STATE, 487 S.W.3d 583, 586 (TEX. CRIM. APP. 2016).

DONLEY V. STATE, NO. 12-21-00109-CR 2022 TEX. APP.
LEXIS 5341 (TEX. APP.-TYLER 2022, NO PET.)

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refused Petitioners Petition for Discretionary
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TABLE OF AUTHORITIES CITED

CASES

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HOPPLINS V. STATE, 487 S.W.3d. 503, 506 (Tex. Crim. App. 2016).

CONLEY V. STATE, NO. 12-21-00109-CR 2022 TEX. APP. LEXIS 5341 (TEX. APP.-TYLER 2022, NO. PET.).

BRECHT V. ABRAHAMSON, 507 U.S. 619, 631 (1993).

Daniels v. Williams, 474 U.S. 332, 10b S.Ct. 662 (1986).

MORRISSEY V. BREWER, 408 U.S. 484, 32 L.Ed. 2d 484, 92 S.Ct. 2539, 2600 (1972).

HARRISON V. STATE, NO. 10-07-00253-CR, 2009 WL 1579002 (TEX. APP-WACO June 3, 2009).

STATUTES AND RULES

TEXAS PENAL CODE. ANN § 12.41.

TEXAS PENAL CODE. ANN § 12.42 (a).

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 _____ 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 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 TWELFTH COURT OF APPEALS (Texas) 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.

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 5/17/2023.
A copy of that decision appears at Appendix _____.

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 _____ (date) in Application No. __ A _____.

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

TENNESSEE CONSTITUTION 1 § 19 DUE COURTS OF LAW.

UNITED STATES CONSTITUTION AMENDMENT. 5th

UNITED STATES CONSTITUTION AMENDMENT. 14th

STATEMENT OF THE CASE

WALTER CHARLES LINK "PETITIONER" was charged by Indictment on September 10, 2020 for the First-degree offense of Possession of a controlled substance, Methcathinone, in an amount Greater than 200 Grams but less than 400 Grams. See - TEX. HEALTH & SAFETY CODE § 481.115 (e).

On December 6, 2021, Petitioner pleaded "Guilty" to the Indictment, and "True" to the allegations in the Indictment that Petitioner was Previously convicted of a felony offense and that Petitioner used or exhibited a deadly weapon during the offense without an Argument on the Punishment. See (8RR-15-1b).

The trial court (TEXAS) assessed Petitioner's Punishment at fifty Years Aggravated sentence at the TEXAS Dept. of Criminal Justice Institution Division. (9RR, 23).

REASONS FOR GRANTING THE PETITION

Petitioner Walter C. Link, was denied his right to substantive Due Process as Guaranteed by the United States Constitution 5th Amendment, And his 14th Amendment and denied Equal Protections of the law.

The Guarantee to substantive Due Process, was meant to secure the individual from arbitrary exercise of Powers of Government. Daniels v. Williams, 474 U.S. 332, 106 S. Ct. 662 (1986).

The trial court abused its discretion by allowing a sentence that called for a mandatory minimum twenty-five-year sentence pursuant to section 12.42 (d) of the Texas Penal Code. Section 12.42 (d) increases the mandatory sentence of a first-degree felony to twenty-five years if it has been shown that the defendant has previously been finally convicted of two felonies, and the second felony conviction is for an offense that occurred subsequent to the first previous conviction having become final.

See. Texas Penal Code § 12.42 (d).

Texas legislature intended to permit enhanced punishment if it has been shown that the defendant has been convicted of two felonies and the second felony conviction having is for an offense that occurred subsequent to the first previous conviction having become final.

See. HOPKINS v. State, 487 S.W. 3d. 583, 586 (Tex. Crim. App. 2016).

The trial court failed to prove the proper sequence of enhancements alleged under section 12.42 (d). In which resulted in reversible error, regardless of other prior convictions are admitted into evidence. See. e.g., Conley v. State, NO. 12-21-00169-CR-2022 Tex. App. LEXIS 5341 (Tex. App.-Tyler 2022, no Pet'). (memo. op not designated for publication).

Petitioner pleaded "TRUE" to the enhancement paragraph in the indictment but did not enter a plea to the second enhancement paragraph that was alleged in the state's Brooks notice. (RR 8, 15). Therefor, Petitioner's sentence may not be enhanced under the states habitual offender's statutes. The states arbitrary action was an error that had a substantial and injurious effect on the out-come of the proceedings. BRECHT V. ABRAHAMSON, 507 U.S. 619, 631 (1993). The court of appeals and the court of criminal appeals (Texas) affirming and refusing Petitioner's was an unreasonable determination of the facts in its conclusion of law. When the government seeks to deprive the person of his liberty we afford the greatest procedural safeguards to ensure a fair trial. MORRIGEY V. BREWER, 408 U.S. 494, 32 L.Ed.2d 484, 92 S.Ct. 2539, 2600 (1972).

CONCLUSION

Petitioner reallering what is at contention is his right to and effective adjudication of his right to liberation from an illegal restraint on his liberty. And can not comfort with bounds of a legitimate fair trial. The petition for a writ of certiorari should be granted.

Respectfully submitted,

Walter C. Rist

Date: JUNE 19, 2023