

23-5347
No.

FILED

AUG 02 2023

OFFICE OF THE CLERK
SUPREME COURT U.S.

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES

Edward Russell — PETITIONER
(Your Name)

vs.

The State of Texas, Et Al — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States District Court, Northern District of Texas
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Edward Russell
(Your Name)

Gist Unit, 3295 FM 3514
(Address)

Beaumont, Tx., 77705
(City, State, Zip Code)

N/A
(Phone Number)

QUESTION(S) PRESENTED

1) Does section 841 of the Texas Health and Safety Code offer guidelines and policies, to limit government's actions in order to protect the constitutional rights of those it sanctions?

1.a) If it does not, is it constitutional?

2) Does section 841 of the Texas Health and Safety Code specifically designate, name, and describe the characteristics of the group of people it sanctions?

2.a) If it does, is it an unconstitutional bill of attainder?

LIST OF PARTIES

[] All parties appear in the caption of the case on the cover page.

[X] 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 State of Texas,
John Scott, Attorney General of Texas
Edward Russell

RELATED CASES

Russell v State of Texas, Et Al, No. 2:20-cv-00066-m-BR
United States District Court, Northern District of Texas, Amarillo
Division. Judgment entered August 2nd, 2022.

Russell v State of Texas, Et. Al., No. 23-10363, United States
Court of Appeals for the Fifth Circuit. Judgment entered July 7th, 2023.

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APPENDIX A *Petitioners motions filed in the United States Court of Appeals for the Fifth Circuit and the court clerks responses.*
All in chronological order.

APPENDIX B *Petitioners motions filed in the United States District Court for the Northern Division of Texas, ~~Amarillo~~ Amarillo Division and the courts response.*
All in chronological order.

APPENDIX C

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TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

Petitioner does not cite any cases in his petition. They are cited in his motions in Appendices A and B.

STATUTES AND RULES

~~Section 841 of the Texas Health and Safety Code~~ Petitioner does not cite any statutes or rules in his petition. The relevant portions of Section 841 of the Texas Health and Safety Code are cited in his motions in appendices A and B.

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 July 7, 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

Section 841 of the Texas Health and Safety Code
in its entirety.

The following sections of the United States Constitution:

Preamble (pg. 1) (sorry, Petition mistook a copy of the
Universal Declaration of Human Rights
for the United States Constitution.)
Article 2 (pg. 2)
Article 3 (pg. 3)
Article 4 (pg. 4)
Article 5 (pg. 5)
Article 6 (pg. 6)
Article 7 (pg. 7)
Article 8 (pg. 8)
Article 10 (pg. 10)
Article 11 (pg. 11)
Article 12 (pg. 12)
Article 15 (pg. 15)
Article 22 (pg. 22)
Article 25 (pg. 25)
Article 30 (pg. 30)

STATEMENT OF THE CASE

Petitioner is challenging the constitutionality of section 841 of the Texas Health and Safety Code. He is not challenging the authority of the state to enact a civil commitment law. It is in fact their responsibility to do so to protect the public but it is also their responsibility to ensure the safety of those sanctioned by 841 by giving standards and guidelines to those given authority over them in the statute. By not providing these standards and guidelines ~~that~~ Texas has given their agents the ability to do as they please regarding the care, treatment, supervision, and punishment for rule violations.

Petitioner is also not challenging his conviction and is claiming that by naming, designating, and describing the characteristics of those it sanctions, 841 is a bill of attainder and the fact that it is ~~preventive~~ preventive rather than retributive or punishment does not matter.

Petitioner was civilly committed and named a Sexually Violent Predator under 841 in 2008. In 2010 he was charged with 11 counts of violating civil commitment rules and in 2012 he was sentenced to 20 years confinement in the Texas Department of Criminal Justice (T.D.C.J.).

In 2017 nine of his convictions were vacated because the sections of 841 that made violating civil commitment rules a criminal act was found unconstitutional (in *Russell v Davis*, 292 F. Supp. 3d 639). He is still serving time ~~on~~ for the final two charges.

Statement Of The Case (cont.)

In 2020 Petitioner filed a civil suit seeking Declaratory Judgement defining the rights of those sanctioned by 841 and injunctive relief seeking protection of his constitutional rights from Texas and its agents upon his release from prison, by either parole or discharge of his sentence, when he is once again subject to the authority of 841. (see appendix B)

In his suit Petitioner claimed that 841 is unconstitutionally vague with no standards or guidelines to prevent agents of the state of Texas ~~the authority~~ from doing as they please regarding the care, treatment, supervision, and punishment for violations of their rules to those ~~in~~ under their authority which is given by 841.

He also claimed that by naming, designating and describing those in sanctions 841 is a bill of attainder.

The district court denied his claims without answering the merits of the case (see appendix B) so petitioner filed two different motions at different times in the 5th Circuit Appeals Court which were returned to him by the court clerk ~~having~~ without being ruled on by a judge. The court clerk then informed Petitioner that his indigent status was only until June 12th, 2023 and if he did not pay the court costs or refile for indigency his case would be dismissed.

Through problems with the Gustav Wirt Law Library he missed his deadline and the clerk dismissed his case on July 7th, 2023. He is now seeking help in this court.

REASONS FOR GRANTING THE PETITION

This petition concerns ~~a~~ matters of constitutional question that the lower courts have avoided leaving this court the responsibility to answer. The District Court avoided these questions by denying Petitioner's complaint and suit for reasons that had nothing to do with the merits of the issue at hand (please see Petitioner's "Objections To The Findings, Conclusions, And Recommendations Of The Magistrate Judge" in Appendix B) and the 5th Circuit clerk denied his appeal because he was unable to refile for indigent status or pay the court costs within their time limit, although when Petitioner first filed his motion (received by the court on April 3rd, 2023) he had at least two months of indigent status before it expired (June 12th, 2023) yet the clerk did not file it or put it before a judge. They held it until Petitioner was no longer indigent, according to their ~~re~~ time limit, although Petitioner is still indigent. Petitioner's request for extension of time to refile was denied.

"This court has held that when constitutional questions are indispensably necessary¹¹ to resolving the case at hand "The court must meet and decide them".²¹ The lower courts avoided doing this and left it to this court to decide the constitutional question for them.

In this petition~~er~~ the case at hand is whether or not section 841 of the Texas Health and Safety Code provides guidelines and

Reasons For Granting The Petition (cont.)

and standards to protect the constitutional rights of those it sanctions, as decided by this court (please see any of Petitioner's motions in appendix's A and B for pertinent cases). Petitioner claims it doesn't and the lower courts refused to answer him. He is asking this court to please answer his constitutional questions. He has no words to express the national importance of this court's decision but this court has responded to other civil commitment programs in other states so he knows this court knows how important it is.



CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Edward Russell

Date: August 1st, 2023