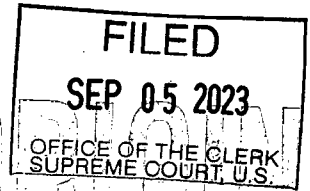


23-5693

No. _____



IN THE

SUPREME COURT OF THE UNITED STATES

LAURENCE EDWARD THOMPSON — PETITIONER
(Your Name)

vs.

BOBBY LUMPKIN — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

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

PETITION FOR WRIT OF CERTIORARI

LAURENCE EDWARD THOMPSON
(Your Name)

2101 F.M. 369N
(Address)

LOUIS PARK, TEXAS 76367
(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

Is The Texas Court of Criminal Appeals Denial without A written order of Petitioner's claim that Sec 8.253, V.T.C.A. Government Code as applied to Petitioner claim was an Ex Post Facto violation in conflict with this Court's Decision in LUNNE V. Mathis, 519 U.S. 433 (1997).

Is The Texas Court of Criminal Appeals Denial without A written order of The Petitioner's claim of The Ex Post Facto Application of The Texas Parole Law in conflict With This Court's Decision in GARNER V. JONES, 529 U.S. 244 (2000).

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

Ex Parte LAWRENCE Edward Thompson, No. 427418-Q, 232nd District Court of Harris County, Texas. Judgment Entered March 31, 2023.

Ex Parte LAWRENCE Edward Thompson, No. LR-15,158-48, Texas Court of Criminal Appeals, Austin, Texas. Judgment Entered May 31, 2023.

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APPENDIX C	Decision of the Texas Court of Criminal Appeals denying Rehearing.
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APPENDIX E	Section 508.253, V.T.C.A. Government Code
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TABLE OF AUTHORITIES CITED

CASES

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Ex Parte JAMES, 2010 Tex. Crim. App. Unpub.
LEXIS 53 (Tex. Crim. App. Jan 27, 2010)

Ex Parte HEILMAN, 456 S.W.3d 159
(Tex. Crim. App. 2015)

Ex Parte GARDNER, 958 S.W.2d 811
(Tex. Crim. App. 1997)

STATUTES AND RULES

Art. 11.07, Sec. 4(a)(1)(2), V.A.C.P.

Art. 42.12, V.A.C.P.

Art. 42.18, V.A.C.P.

CHAPTER 508, V.T.C.A. GOVERNMENT CODE

Sec. 508.253, V.T.C.A. GOVERNMENT CODE

OTHER

Table of Authorities Cited

<u>Case</u>	<u>Page Number</u>
<u>GARDNER v. JONES, 529 U.S. 244</u> (2000)	
<u>LYNNE v. Mathias, 519 U.S. 433</u> (1997)	
<u>MICKENS-THOMAS v. VANDERBILT, 321 F.3d 374</u> (3rd Cir. 2003)	
<u>WARREN v. Miles, 230 F.3d 688</u> (5th Cir. 2000)	
<u>WOLFE v. PENNSYLVANIA DEPT. OF CORRECTIONS,</u> 334 F. Supp.2d 762 (E.D. Pa. 2004)	

Statutes and Rules

Art. I, Sec. 10, Clause 1, United States Constitution

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 92nd District Court, Harris County, Texas court appears at Appendix BD 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 May 31, 2023.
A copy of that decision appears at Appendix A.

☐ A timely petition for rehearing was thereafter denied on the following date: July 17, 2023, and a copy of the order denying rehearing appears at Appendix C.

☐ 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

Art. I, Section 10, Clause 1, United States Constitution

No State shall ENTER INTO ANY TREATY, ALLIANCE, OR CONFEDERATION; GRANT LETTERS OF MARQUE AND REPRISAL; COIN MONEY; EMIT BILLS OF CREDIT; MAKE ANYTHING BUT GOLD AND SILVER COIN A TENDER IN PAYMENT OF DEBTS; PASS ANY BILL OF ATTAINDER, EX POST FACTO LAW, OR LAW IMPAIRING THE OBLIGATION OF CONTRACTS OR GRANT ANY TITLE OF NOBILITY.

Amendment 14, Section 1, United States Constitution

All PERSONS BORN OR NATURALIZED IN THE UNITED STATES, AND SUBJECT TO THE JURISDICTION THEREOF, ARE CITIZENS OF THE UNITED STATES AND OF THE STATE WHEREIN THEY RESIDE, NO STATE SHALL MAKE OR ENFORCE ANY LAW WHICH SHALL ABRIDGE THE PRIVILEGES AND IMMUNITIES OF CITIZENS OF THE UNITED STATES, NOR SHALL ANY STATE DEPRIVE ANY PERSON OF LIFE, LIBERTY, OR PROPERTY, WITHOUT DUE PROCESS OF LAW, NOR DENY TO ANY PERSON WITHIN ITS JURISDICTION THE EQUAL PROTECTION OF THE LAWS.

STATEMENT OF THE CASE

On July 1, 2022, the Texas Board of Pardons and Paroles denied Petitioner Parole Pursuant to Chapter 508, V.T.C.A. Government Code. On March 13, 2023, Petitioner filed an Application for Writ of Habeas Corpus in the 232nd District Court of Harris County, Texas alleging that the Application of Chapter 508, V.T.C.A. Government Code to the Petitioner's crime, which is alleged to have occurred on March 26, 1985, violated the Ex Post Facto Clause of the United States Constitution because it was enacted on September 1, 1997. The 232nd District Court of Harris County, Texas entered Findings of Facts, Conclusions of Law, and Order, holding that Petitioner's claims were procedurally barred by Article 11.07, Section 4 V.A.C.C.P. because Petitioner could have raised the claims in a previous Application. On May 31, 2023, the Texas Court of Criminal Appeals denied Petitioner's Application for Writ of Habeas Corpus without a written order. On July 17, 2023, the Texas Court of Criminal Appeals denied Petitioner's Motion for Reconsideration without a written order.

REASONS FOR GRANTING THE PETITION

A state court has ~~decided~~ an important question of Federal law in a way that conflicts with relevant decisions of this Court. An Application For Writ of Habeas Corpus was filed by the Petitioner in the 232nd District Court of Harris County, Texas on March 13, 2023, alleging the following grounds for relief:

Applicant's Parole Denial of July 1, 2022, was a Violation of the Ex Post Facto Clause of the United States Constitution.

The Application of Article 42.18 V.A.C.P. to Applicant's crime was a Violation of the Ex Post Facto Clause of the United States Constitution.

The Application of Section 508.253, V.T.C.A. Government Code to the Applicant's sentence is a Violation of the Ex Post Facto Clause of the United States Constitution.

Applicant is being denied a liberty interest by the Texas Department of Criminal Justice-Correctional Institutions Division to undergo

Reasons For Granting The Petition

Ex Offender Treatment To Be Released On Parole Is Violation Of The Due Process Clauses Of The Fifth And Fourteenth Amendments Of The United States Constitution.

Applicant's Parole Eligibility, Suitability, Release, Supervision, Interventions, Sanctions, Revocations And Any Other Parole-Related Decisions For The Last Thirty-Eight Years Is A Violation Of The Ex Post Facto Clause Of The United States Constitution.

The 332nd District Court of Harris County, Texas Refused To Address The Petitioner's Grounds For Relief Because The Harris County District Attorney's Office Argued That The Petitioner Could Have Raised These Claims In A Previous Application, Which Is A Violation Of Article 11.07, Section 4, V.A.C.C.P. (See Appendix B). The Texas Court Of Criminal Appeals On May 31, 2023, Entered An Order Denying Petitioner's Application For Writ Of

Reasons For Granting The Petition

HABEAS CORPUS without A WRITTEN ORDER, which means the Court addressed the Merits of the PETITIONER'S GROUNDS FOR RELIEF, despite the Trial Court APPLYING A state Procedural Default. (See Appendix A).

The PETITIONER was convicted BY A JURY in the 232nd District Court of Harris County, Texas on October 17, 1985, of the Felony OFFENSE of BURGLARY of A Building that is alleged to have occurred on March 26, 1985. On March 26, 1985, Article 42.12, V.A.C.C.P. was the governing Parole Law in the State of Texas. On September 1, 1985, the Texas Legislature enacted Article 42.18, V.A.C.C.P. (an alleged Repeal/Modification of Article 42.12, V.A.C.C.P.), which changed the substantive criteria for Parole in Texas. Again on September 1, 1997, the Texas Legislature enacted Section 508, V.T.C.A. Government Code as the Parole

Reasons For Granting The Petition

Law, which not only changed the substantive criteria for Parole in Texas; But also made Public Safety the Foremost Factor For determining Release on Parole in the State of Texas. Article 42.18, V.A.C.C.P. and Chapter 508, V.T.C.A. Government Code were given Retroactive Effect to all crimes committed before their enactment, to all prisoners in the State of Texas. There are no Texas Court of Criminal Appeals decisions applying Lynne v. Mathias, 519 U.S. 433 (1997), or Garner v. Jones, 529 U.S. 244 (2000) to the ex Post Facto nature of the enactment of the changes in the Texas Parole Law.

This Court rendered its decision in Lynne v. Mathias, 519 U.S. 433 (1997), on February 19, 1997, a mere seven (7) months before the Texas Legislature enacted Section 508.253, V.T.C.A. Government Code. (see Appendix E). This

Reasons For Granting The Petition

Court wrote, "To Fall within the Ex Post Facto Prohibition, A Law Must Be Retroactive—that is, "it must apply to events occurring before its enactment"—and it "must disadvantage the offender affected by it," ... By Altering the definition of criminal conduct or increasing the punishment for the crime. ..." Section 508.253, V.T.C.A. Government Code Prohibits the Parole Board From Calculating or Giving A Prisoner the Time From When A Pre-Revocation Warrant is issued and the time A Prisoner was arrested. This was not a part of Article 42.12, V.A.C.C.D., which was in effect when the Petitioner's crime was alleged to have been committed. In essence, this statute denies A Prisoner time toward the discharge of his sentence, or eligibility for Parole or Mandatory

Reasons For Denying The Petition

supervision as it required a prisoner redo time he has already done. The petitioner can understand the legislature's wanting to punish a prisoner for violating his parole or mandatory supervision, but for the Texas Court of Criminal not to address whether this is a situation similar to Lynne v. Mathis, 519 U.S. 433 (1997), or not to have a decision on the matter addressing whether it applies is a violation of judicial discretion. The Texas Court of Criminal Appeals denial without a written order is in conflict with this Court's decision in Lynne v. Mathis, 519 U.S. 433 (1997).

This Court decided Garner v. Jones, 529 U.S. 244 (2000) on March 28, 2000, but the Texas Court of Criminal Appeals has no decisions in the twenty-three

Reasons For Granting The Petition

(23) YEARS SINCE THIS decision APPLYING A PROPER constitutional ANALYSIS OF THE EX POST FACTO CLAUSE OF THE UNITED STATES Constitution. TO THE TEXAS PAROLE LAW despite its RETROACTIVITY. This is IMPORTANT TO ALL TEXAS PRISONERS WHOSE CRIMES OCCURRED BEFORE SEPTEMBER 1, 1985, AND THOSE PRISONERS IN STATES THAT HAVE MODELED THEIR PAROLE LAWS AFTER TEXAS.

IN WARREN V. MILES, 230 F.3d 688 (5th Cir 2000), THE FIFTH Circuit wrote, "FOR AN EX POST FACTO VIOLATION TO OCCUR TWO ELEMENTS MUST BE PRESENT: (1) A LAW MUST BE RETROSPECTIVE, THAT IS, IT MUST APPLY TO EVENTS OCCURRING BEFORE ITS ENACTMENT, AND (2) THE NEW LAW MUST CREATE A SUFFICIENT RISK OF INCREASING THE PUNISHMENT ATTACHED TO THE DEFENDANT'S CRIME. ... IN EVALUATING AN ALLEGED VIOLATION OF THE EX POST FACTO doctrine, THE COURT MUST RIGOROUSLY ANALYZE THE LEVEL

Reasons For Granting The Petition

OF Risk That AN INMATE'S STAY IN PRISON WILL BE LONGER BECAUSE OF A CHANGE IN THE LAW THAT APPLIES RETROACTIVELY." THE PETITIONER HAS EFFORTLESSLY PROVED ELEMENT ONE, BUT THE STATE TRIAL COURT AND THE TEXAS COURT OF CRIMINAL APPEALS HAS STYMIED ANY PRISONER FROM SHOWING ELEMENT TWO, BY DENYING PRISONERS ACCESS TO THE RECORDS OF THE TEXAS BOARD OF PARDONS AND PAROLES. IN TEXAS, THE RECORDS OF THE TEXAS BOARD OF PARDONS AND PAROLES RECORDS ARE CONFIDENTIAL AND WITHOUT A COURT ORDER A PRISONER CANNOT ACCESS THEM. BECAUSE OF THIS THE TEXAS COURT OF CRIMINAL APPEALS HAS GOTTEN AWAY WITH DENYING PRISONERS "THE OPPORTUNITY TO DEMONSTRATE BY EVIDENCE DRAWN FROM THE STATE'S RECORD" THAT THE LAW'S PRACTICAL IMPLEMENTATION WILL RESULT IN LONGER PERIOD OF INCARCERATION BY DENYING PRISONERS APPLICATION FOR WRIT OF HABEAS CORPUS

Reasons For Granting The Petition

without A written order. The Court of Criminal Appeals' denial without written order is in conflict with the Supreme Court's decision in Graham v. Jones, 529 U.S. 244 (2000), as it ~~disobeys~~ this Court's dictate that "A Court Rigorously analyze the level of risk that an inmate's prison stay will be longer because of a change in the law applied retroactively."¹⁷ This is a matter the highest state court in Texas concerning criminal matters should address but has failed to do so. This Court should grant the petition and appoint counsel to address this matter.

¹⁷ See, Dyer v. Bowler, 465 F.3d 280 (6th Cir. 2006)

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

L.E. Thompson

Date: SEPTEMBER 5, 2023