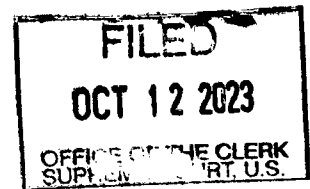


No. 23-6001

ORIGINAL

IN THE
SUPREME COURT OF THE
UNITED STATES



KENRIC LAVAUGHN JACKSON SENIOR
PETITIONER

VS.

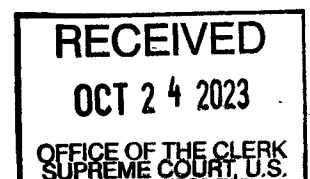
THE STATE OF TEXAS
RESPONDENT

ON PETITION FOR A WRIT
OF CERTIORARI
TO

THE SUPREME COURT OF TEXAS

DIRECT COLLATERAL
REVIEW

KENRIC LAVAUGHN JACKSON SENIOR
WAINWRIGHT UNIT
2065 PRISON RD. 1-1505498
LOVELAND, TX. 75851
936-636-7321



QUESTIONS PRESENTED FOR REVIEW

- 1) IS JACKSON'S (PETITIONER)
LIFE SENTENCE COMPRISED OF
PUNISHMENT BEYOND THE STATUTORY/
MAXIMUM, WITHOUT THE TRIAL COURT
ESTABLISHING JACKSON WAS "LINKED"
TO PRIOR OFFENSES FOR ENHANCEMENT
PURPOSES BEYOND A REASONABLE DOUBT,
IN VIOLATION OF APPENDIX-N-NEW JERSEY,
530 U.S. 466 (2000)?
- 2) DOES THE LIFE SENTENCE IMPOSED
CONSTITUTE AN ILLEGAL SENTENCE?

LIST OF PARTIES

- 1) HONORABLE JUDGE BROCK THOMAS
- 2) TIFFANY DUPREE, STATE'S ATTORNEY
- 3) DANILO LACAYO, STATE'S ATTORNEY
- 4) KENNETH E. MCCOY, DEFENSE ATTORNEY
- 5) JEROME GODINICH JR., APPELLATE ATTORNEY

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#1104003

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Jurisdiction

THE COURT OF CRIMINAL APPEALS OF
TEXAS DISMISSED WITHOUT WRITTEN ORDER
ON SEPTEMBER 6, 2023.

CONSTITUTIONAL AND STATUTORY PROVISIONS

IN APPENDI, THE SUPREME COURT HELD THAT THE DUE PROCESS CLAUSE OF THE FOURTEENTH AMENDMENT REQUIRES THAT A FACTUAL DETERMINATION, OTHER THAN THE FACT OF A PRIOR CONVICTION, AUTHORIZING AN INCREASE IN THE MAXIMUM PRISON SENTENCE FOR AN OFFENSE MUST BE MADE BY A JURY ON THE BASIS OF PROOF BEYOND A REASONABLE DOUBT. APPENDI-V-NEW JERSEY, 120 S.C.T. AT 2351.

UNDER THE TEXAS ENHANCEMENT LAW STATUTE A PRIOR CONVICTION ACTUALLY BECOMES AN ELEMENT OF THE CHARGED OFFENSE AND CREATES A NEW STATUTORY DEFINED CRIME WITH ITS OWN PENALTY RANGE. PRIOR CONVICTIONS OFFERED FOR ENHANCEMENT MUST MEET THE LEGAL SUFFICIENCY STANDARD OF PROOF BEYOND A REASONABLE DOUBT. IDENTITY MUST BE PROVED BEYOND A REASONABLE DOUBT.

LONG RECOGNIZED METHODS INCLUDE TESTIMONY BY A WITNESS WHO IDENTIFIES THE DEFENDANT AS THE PERSON PREVIOUSLY CONVICTED, USE OF A FINGERPRINT EXPERT TO LINK CONVICTION DOCUMENTATION TO THE ACCUSED AND STIPULATION OR JUDICIAL ADMISSION.

IF THE IDENTITY EVIDENCE REQUIRES SPECIAL KNOWLEDGE SUCH AS FINGERPRINTS OR HANDWRITING, EXPERT TESTIMONY MAY BE REQUIRED. THESE FACT-SPECIFIC EXAMPLES REVEAL AN OVERALL THEME THAT PROOF OF IDENTITY IS ESTABLISHED BY THE AGGREGATE OF ALL EVIDENCE IN THE RECORD.

IT IS WELL-SETTLED THAT A PRIOR CONVICTION ALLEGED FOR ENHANCEMENT PURPOSES OR AS A PART OF A CRIMINAL RECORD OF A DEFENDANT UNDER TEX. CODE CRIM. PROC. ANN. ART. 37.07 SECTION 3(A) (VERSION SEP. 1993).

MAY BE ESTABLISHED BY CERTIFIED COPIES OF THE PENITENTIARY RECORDS, INCLUDING FINGERPRINTS, SUPPORTED BY EXPERT TESTIMONY IDENTIFYING THEM AS IDENTICAL WITH KNOWN PRINTS OF THE DEFENDANT.

Under Tex. Code Crim Proc Ann. Art. 11.07
Section 4(A), prohibits review of subsequent
applications for writ of habeas corpus except
in limited circumstances. The applicant must
establish one of the following exceptions:

- 1) THE CURRENT CLAIMS AND ISSUES
HAVE NOT BEEN AND COULD NOT HAVE
BEEN PRESENTED PREVIOUSLY IN AN
ORIGINAL APPLICATION OR IN A PREVIOUSLY
CONSIDERED APPLICATION FILED UNDER THIS
ARTICLE BECAUSE THE FACTUAL OR LEGAL
BASIS FOR THE CLAIM WAS UNAVAILABLE
ON THE DATE THE APPLICANT FILED THE
PREVIOUS APPLICATION; OR
- 2) BY A PREPONDERANCE OF EVIDENCE, BUT
FOR A VIOLATION OF THE UNITED STATES
CONSTITUTION NO RATIONAL JUROR COULD
HAVE FOUND THE APPLICANT GUILTY BEYOND
A REASONABLE DOUBT.

STATUTORY PROVISION
CONCLUDED

STATEMENT OF THE CASE

JACKSON WAS FOUND GUILTY OF SECOND DEGREE ROBBERY - TRIAL BY JURY. MAY 8, 2008 JACKSON ELECTED TO BE SENTENCED BY AN IMPARTIAL TRIAL JUDGE, MAY 12, 2008. JACKSON FILED A SUBSEQUENT APPLICATION FOR WRIT OF HABEAS CORPUS, 11.07 4(A). CHALLENGING AN ILLEGAL SENTENCE BASED UPON AN INVALID ENTRANCEMENT. TRIAL COURT CAUSE #1104003-D, JUNE 7, 2023. ON JULY 6, 2023, THE TRIAL COURT RECOMMENDED THAT THE INSTANT WRIT APPLICATION BE DISMISSED BECAUSE THE APPLICANT FAILS TO INCLUDE SUFFICIENT SPECIFIC FACTS ESTABLISHING THAT HIS CURRENT CLAIMS WERE UNAVAILABLE, OR THAT BY A PREPONDERANCE OF THE EVIDENCE NO RATIONAL JUROR WOULD HAVE FOUND HIM GUILTY BEYOND A REASONABLE DOUBT. SEE TEX. CRIM. PROC. CODE ANN. ART. 11.07 SECTION 4(A). JACKSON FILED A TIMELY MOTION OBJECTING TO THE STATE'S PROPOSED FINDINGS OF FACT, CONCLUSION OF LAW AND ORDER, IN COMPLIANCE WITH THE TEXAS RULES OF APPELLATE PROCEDURES 73.4 (B)(2). ALSO, JACKSON MOTIONED THE COURT FOR AN EVIDENTIARY HEARING, IN COMPLIANCE WITH TEXAS RULES OF EVIDENCE 73.8. NO RULING WAS TRANSCRIBED. ON JULY 25, 2023, JACKSON'S APPLICATION FOR WRIT OF HABEAS CORPUS 11.07 WAS RECEIVED AND PRESENTED TO THE COURT. ON SEPTEMBER 6, 2023, THE COURT OF CRIMINAL APPEALS OF TEXAS DISMISSED WITHOUT WRITTEN ORDER THE SUBSEQUENT APPLICATION FOR A WRIT OF HABEAS CORPUS. TEX. CODE CRIM. PROC. ART. 11.07, SEC. 4(A)-(C).

JACKSON NOW COMES ON DIRECT COLLATERAL REVIEW OF THE STATE COURT'S DECISION. 28 U.S.C. 1257 (A) - FOR CONSIDERATION TO BE HEARD FOR THE FIRST TIME THAT I WAS SENTENCED IN VIOLATION OF THE CONSTITUTION, RESPECTIVELY.

See MADISON-V- ALABAMA, 139 S. CT. 718 (2019)
WILLIAMS-V- PENNSYLVANIA, 136 S. CT. 1899 (2016)
DUNN-V- MADISON, 138 S. CT. 9 (2012)

THE UNITED STATES SUPREME COURT WILL
CONSIDER ONLY QUESTIONS SET OUT IN THE
PETITION, OR FAIRLY INCLUDED THEREIN.

IN THE TEXT OF A CRIMINAL PROCEEDING THE
DUE PROCESS CLAUSE REQUIRES STATES TO
ADOPT THOSE PRACTICES THAT ARE FUNDAMENTAL
TO PRINCIPLES OF LIBERTY AND JUSTICE AND
WHICH INHERE "IN THE VERY IDEA OF FREE
GOVERNMENT" AND ARE THE INALIENABLE RIGHT
OF A CITIZEN OF SUCH A GOVERNMENT.

TURNING-V- NEW JERSEY, 211 U.S. 78, 106, 29
S. CT. 14, 53 L. ED. 97 (1908).

JACKSON ARGUES THAT HE WAS DENIED
DUE PROCESS OF THE LAW UNDER THE FEDERAL
CONSTITUTION VIOLATING HIS FOURTEENTH AMENDMENT
RIGHT TO THE UNITED STATES CONSTITUTION AND
DENIED DUE COURSE OF THE LAW UNDER THE
TEXAS CONSTITUTION, ARTICLE 1, SECTION 19, WHEN
THE TRIAL COURT FAILED TO PRODUCE SUFFICIENT
EVIDENCE TO LEGALLY LINK JACKSON TO PRIOR
CONVICTION # 590737 AND PRIOR CONVICTION
654450, FOR ENHANCEMENT PURPOSES DURING
THE PUNISHMENT PHASE OF JACKSON'S TRIAL
FOR A SECOND DEGREE ROBBERY. THIS IS A
TRIAL COURT ERROR THAT RESULTED IN
JACKSON RECEIVING AN ILLEGAL SENTENCE
BASED UPON INVALID ENHANCEMENTS.

AS A MATTER OF LAW, THE PRIOR CONVICTIONS
COULD NOT BE USED TO SENTENCE JACKSON
AS A HABITUAL OFFENDER. JUDICIAL REASONING
AND DETERMINATION WERE INCORRECT, ACCORDING
TO THE FACTS BEFORE THE COURT, AT THE TIME

OF sentencing. TOWNSEND-V-BURKE, 334 U.S. 736 S.Ct. 1252, 92 L.ED. 1670 (1948).

RIGHT TO DUE PROCESS INCLUDES THE RIGHT TO AN impartial Judge. Williams-V-Pennsylvania, 579 U.S. 1, 7; 136 S.Ct. 1899, 195 L.ED. 2D 132.

JACKSON ARGUES THAT HE WAS DENIED DUE PROCESS OF LAW UNDER THE FEDERAL CONSTITUTION VIOLATING HIS FOURTEENTH AMENDMENT RIGHT TO THE UNITED STATES CONSTITUTION, AND DUE COURSE OF THE LAW UNDER THE TEXAS CONSTITUTION ARTICLE 1, SECTION 19, WHEN JACKSON WAS DENIED CONSTITUTIONALLY EFFECTIVE ASSISTANCE OF COUNSEL IN THE pre-plea BARGAINING PHASE BEFORE TRIAL AND IN THE APPELLATE ARENA.

IN VIOLATION OF STRICKLAND-V-WASHINGTON, 466 U.S. 668, 669 (1984) - Once TRIAL COUNSEL OF RECORD WAS PLACED ON BROOKS NOTICE, HE HAD A DUTY TO RESEARCH TEXAS ENHANCEMENT LAW, INVESTIGATE JACKSON'S CASE AND PREVENT JACKSON FROM PLEADING "TRUE" TO THE ENHANCEMENT ALLEGATION. THIS DUTY DERIVES FROM COUNSEL'S FUNCTION TO MAKE THEN ADDITIONAL TESTING PROCESS WORK IN THE PARTICULAR CASE. See BROOKS-V-STATE, 957 SW 2D 30 (Tex. Crim.

App. 1997). ALSO See: MeneFee-V-STATE, 175 SW 3D 500 (Tex. App. Beaumont 2005). TRIAL COUNSEL FAILED IN HIS DUTIES, THESE DEFICIENCIES CONTRIBUTED TO JACKSON RECEIVING AN ILLEGAL SENTENCE. APPELLATE COUNSEL OF RECORD WAS CONSTITUTIONALLY INEFFECTIVE FOR FAILING TO CHALLENGE ON DIRECT APPEAL THE APPLICATION OF A SENTENCING ENHANCEMENT. AS A RESULT OF APPELLATE COUNSEL'S OMISSION FOR FAILING TO RAISE A SIGNIFICANT ISSUE THAT WOULD'VE RESULTED INTO A REVERSAL OF JACKSON'S PUNISHMENT, CONTRIBUTED TO THE COURT OF APPEALS AFFIRMING JACKSON'S PUNISHMENT. See CRUZ-V-STATE, No. 01-00-00463-CR, 2001 TEX. APP. LEXIS 6654 AT 5 (Tex. App-HOUSTON [1ST DIST.] ALSO, WILLIAMS-V-STATE, 309 SW 3D 124, 131 (Tex. App. TEXARKANA 2010

REF'D.) JACKSON ASSERTS, TIME HAS NOT ERODED THE FORCE OF JUSTICE SUTHERLAND'S OPINION FOR THE COURT IN POWELL-V ALABAMA 287 U.S. 45, 53 S.Ct. 55, 77 L.ED. 158 (1932).

"LEFT WITHOUT THE AID OF COUNSEL HE MAY BE PUT ON TRIAL WITHOUT A PROPER CHARGE AND CONVICTED UPON INCOMPETENT EVIDENCE OR EVIDENCE IRRELEVANT TO THE ISSUE OR OTHERWISE INADMISSIBLE. HE LACKS BOTH THE SKILL AND KNOWLEDGE ADEQUATELY TO PREPARE HIS DEFENSE EVEN THOUGH HE HAS A PERFECT ONE. HE REQUIRE THE GUIDING HAND OF COUNSEL AT EVERY STEP IN THE PROCEEDINGS AGAINST HIM." JACKSON ARGUES THAT THE "KEY" ELEMENT IN PROVING THE FACT OF A PRIOR CONVICTION FOR ENHANCEMENT OF PUNISHMENT IS PRESENTING EVIDENCE OF IDENTITY, WHICH IS INDEPENDENT OF OR IN ADDITION TO THE EVIDENCE SHOWN IN THE PENITENTIARY PACKET. See Zimmer-V-STATE, 989 SW2d 48 (1998).

THE STATE CALLED DEPUTY KATHERINE EMIL MILLS, CRIME SCENE UNIT CUSTODIAN OF FINGERPRINTS. WHEN TESTIFIED ON VOIR DIRE, BY TRIAL COUNSEL IN CAUSE # 590737, CAUSE # 541263, 90 CR-1374, CAUSE # 658413, CAUSE # 654450, JAIL CARD # 8922431, SHE TOLD THE COURT, SHE WAS NOT ABLE TO LINK JACKSON TO STATE'S EXHIBITS BY USE OF FINGERPRINTS. TRIAL COUNSEL APPRISED THE TRIAL COURT BY LODGING A TIMELY OBJECTION ON THE GROUND OFFICER TESTIMONY.

THEREFORE, THE EVIDENCE WAS NOT RELEVANT UNDER TEXAS RULES OF EVIDENCE 401. AS THE EVIDENCE WAS NOT RELEVANT UNDER RULE 401, IT WAS INADMISSIBLE UNDER TEXAS RULES OF EVIDENCE 402. See APEMAN-V-STATE, 49 SW3D 92 (2001).

(Tex. App. Beaumont 2001). Ironically, THE TRIAL Judge over-ruled trial counsel's objection. JACKSON argues the identification were incomplete. See EX PARTE BULLARD, 548 SW2D 13, 18.

At this breaking point, THE TRIAL Judge, THE TAEL OF THE FACTS BEFORE HIM, must consider whether THE TOTALITY OF THE EVIDENCE ESTABLISHES THE EXISTENCE OF THE ALLEGED PRIOR CONVICTION AND THEIR LINK TO JACKSON.

IF AFTER ALL PROOF ON THE FACTS IN QUESTION HAVE BEEN RECEIVED, EVIDENCE DOES NOT, IN THE AGGREGATE SUPPORT RATIONAL THAT JACKSON IS THE SAME PERSON AS THE ONE PREVIOUSLY CONVICTED, FACTFINDER SHOULD NOT BE ALLOWED TO CONSIDER EVIDENCE OF THE CONVICTION. JACKSON ARGUES THAT THE STATE SIMPLY FAILED TO SUFFICIENTLY PROVE THE FACT OF PRIOR CONVICTION #590737 AND PRIOR CONVICTION #654450, A NECESSARY ELEMENT, AGGRAVATING FACTOR OF THE TEXAS ENHANCEMENT LAW STATUTE. JACKSON DOES NOT QUALIFY TO BE CHARACTERIZED AS A HABITUAL OFFENDER UNDER THE TEXAS ENHANCEMENT LAW STATUTE. JACKSON IS ACTUALLY INNOCENT IN HIS "STATUS" AS A HABITUAL OFFENDER, under THE TEXAS ENHANCEMENT LAW STATUTE. See SAWYER-V- WHITLEY, 505 U.S. 333 (1992).

JACKSON ASSERTS THE TRIAL COURT HAD "ONE BITE AT THE APPLE." JACKSON IS ASKING THIS COURT TO CONSIDER, "FINISH EATING IT, TO ITS CORE."

Respectively.

JACKSON HAS DEMONSTRATED THAT NO RATIONAL TRIER OF FACT COULD HAVE FOUND BEYOND A REASONABLE DOUBT THE FACTS NECESSARY TO SUPPORT THE LIFE SENTENCE. "AN AGGRAVATING FACTOR" - JACKSON'S LIFE SENTENCE IS

COMPRISED OF PUNISHMENT BEYOND THE STATUTORY MAXIMUM. IN TURN, IN VIOLATION OF APPENDIX-V- NEW JERSEY, 530 U.S. 466 (2000). ALSO SEE, FRENCH-V- ESTELLE, 692 F.2D 1021 (3RD CIR. 1982). STATE FAILED TO PROVE SUFFICIENT EVIDENCE OF HABITUAL OFFENDER STATUS TO SUPPORT LIFE SENTENCE.

IN THE STATE COURT, JACKSON RELIED ON EX PARTE HILL, 632 SW3D 547 (2021) AS NEW LAW THAT WASN'T AVAILABLE FOR JACKSON'S PREVIOUS APPLICATIONS FOR RELIEF. UNDER TEX. CODE CRIM. PROC. ANN. ART. 11.07 4(A).

THE RECORD AFFIRMATIVELY REFLECTS JACKSON'S LIFE SENTENCE IS ILLEGAL, BECAUSE IT IS OUTSIDE THE MAXIMUM RANGE OF PUNISHMENT COMPRISED ON THE INVALID ENHANCEMENTS. THEREFORE, THE SENTENCE WAS UNAUTHORIZED BY LAW, AND THEREFORE ILLEGAL. UNDER HILL, IT HAS BEEN REAFFIRMED THAT A CLAIM OF ILLEGAL SENTENCE BASED UPON AN INVALID ENHANCEMENT IS COGNIZABLE IN POST-CONVICTION HABEAS CORPUS PROCEEDINGS.

ALSO JACKSON IS RELYING ON EX PARTE RICH, 194 SW3D 508. UNDER RICH, JACKSON IS ENTITLED TO RELIEF UNDER TEXAS CODE CRIMINAL PROC. ANN. ART. 11.07 FROM CONVICTION AND SENTENCE AS A HABITUAL OFFENDER UNDER TEX. PEN. CODE ANN. § 12.42 (D). SENTENCE IS ILLEGAL AS PRIOR CONVICTIONS COULD NOT BE USED TO SENTENCE HIM AS A HABITUAL OFFENDER.

DESPITE THE GENERAL RULE THAT A PKA OF TRUE TO ENHANCEMENT PARAGRAPH RELIEVES THE STATE OF ITS BURDEN TO PROVE A PRIOR CONVICTION ALLEGED FOR ENHANCEMENT AND FORFEITS THE DEFENDANT'S RIGHT TO APPEAL THE INSUFFICIENCY OF EVIDENCE TO PROVE THE PRIOR CONVICTION, THERE IS AN EXCEPTION WHEN "THE RECORD AFFIRMATIVELY REFLECTS" THAT THE ENHANCEMENT

IS ITSELF IMPROPER. SANBERS-V-STATE, 785 SW2D 445 [C Tex. App. San Antonio 1990 NO PET.] THE LEGALITY OF JACKSON'S PUNISHMENT IS NOW KNOWN TO BE ILLEGAL, AS IT NOW STANDS, NOT AS IT STOOD AT SOME OTHER TIME. IN TURN, JACKSON WAS HARMED UNDER EX PARTE PARROTT, 396 SW3D AT 536. JACKSON HAS SHOWN THAT HE RECEIVED AN ILLEGAL SENTENCE BASED UPON INVALID ENHANCEMENTS. JACKSON HAS SHOWN BOTH A COGNIZABLE IRREGULARITY AND HARM. THERE IS NO OTHER ACTUAL CRIMINAL HISTORY AVAILABLE TO SUPPORT THE PUNISHMENT RANGE WITHIN WHICH JACKSON WAS SENTENCED. PARROTT, 396 SW 3D AT 536. JACKSON ARGUES THE "PRINCIPLE" THAT THE LEGALITY OF SENTENCE CANNOT BE WAIVED.

EX PARTE RICH CONTROLS JACKSON'S ILLEGAL SENTENCE CLAIM BASED ON AN IMPROPER ENHANCEMENT. A SENTENCE THAT IS OUTSIDE THE MAXIMUM OR MINIMUM RANGE OF PUNISHMENT IS UNAUTHORIZED BY LAW AND THEREFORE ILLEGAL.

RODGERS, 598 SW3D AT 267. THE STATE COURT HAS NOT PROVIDED ANY RATIONALE AS TO WHY THE "PRINCIPLE" SHOULD BE IGNORED IN THIS CASE. THE LEGALITY OF SENTENCE JURISPRUDENCE SHOULD APPLY "EQUALLY" TO THE SUPREME COURT OF TEXAS REQUIRING JACKSON TO BE GRANTED RELIEF CONSISTENT WITH ITS OPINION IN EX PARTE RICH, 194 SW3D 508.

JACKSON HAS DEMONSTRATED CLAIMS OF CONSTITUTIONAL DIMENSION BASED UPON CONTROVERTED, PREVIOUSLY UNRESOLVED FACTS WHICH ARE MATERIAL TO JACKSON'S CONFIRMATION. DUE PROCESS HAS NOT BEEN SATISFIED. SEE EX PARTE TURNER 545 SW2D 470 (TEX. CRIM. APP. 1977). THE TRIAL COURT'S MATTER OF FACTS IN THIS

HABEAS PROCEEDING ARE NOT SUPPORTED BY THE RECORD. JACKSON APPLIED FOR RELIEF TO BE CONSIDERED, THUS GRANTED "PREMISED" ON THIS CONSTITUTIONAL CLAIM. JACKSON IS REQUESTING FOR A De Novo Review. JACKSON IS ENTITLED TO A NEW PUNISHMENT HEARING AND TO BE RE-SENTENCED PURSUANT TEX. CODE CRIM. PROC. ANN. ART. 44.29 (B).

See COMMONWEALTH-V-TORAE, 276 A. 3D 1192 (PA 2022).

JACKSON'S illegal Sentence is supported by the records. See Appendix

REASON FOR GRANTING PETITION

JACKSON ASSERTS THAT COMPELLING EXCEPTIONAL CIRCUMSTANCES EXIST WITHIN THIS PETITION THAT REQUIRE THIS COURT TO EXERCISE ITS DISCRETIONARY JURISDICTION. THE LOWER COURTS' DECISIONS ARE ERRONEOUS. IN TEXAS, IT IS WELL-SETTLED THAT A TRIAL OR APPELLATE COURT WHICH OTHERWISE HAS JURISDICTION OVER A CRIMINAL CASE MAY ALWAYS NOTICE AND CORRECT AN ILLEGAL SENTENCE. JACKSON "RESPECTFULLY" URGES THIS COURT TO CONSIDER FOR REVIEW, THIS CONSTITUTIONAL CLAIM, WITH GREAT SCRUTINY.

THIS CURRENT PETITION CONTAINS ESTABLISHED NEW LAW, THAT IS NOW RECOGNIZED BY THE LOWER COURTS, SUPPORTED BY SPECIFIC FACTS IN THE RECORD. JACKSON ASK, IF NOT NOW, WHEN?

JACKSON WOULD LIKE TO POINT TO, EX PARTE ALBERT DAWSON JUNIOR, 509 SW3D 293 (2016) NO. WR-85,612-02 (PUBLISHED NOV. 23, 2016) ON THE APPLICATION FOR WRIT OF HABEAS CORPUS, CAUSE NO. 15-067-A. IN THE 2ND 35TH DIST. COURT FROM COLORADO COUNTY. A TEXAS SUPREME COURT JUDGE, JUDGE ALCALA FILED A CONCURRING OPINION. JUDGE ALCALA STATED THAT SHE JOINED THE COURT IN 2011, AND WITNESSED JUDGES MISCONDUCT, IN HANDLING 1107 APPLICATIONS. ACCUSING THE COURT'S JUDGES OF VIOLATING THE TEXAS CONSTITUTION AND STATUTES, IN HOW THE COURT RESOLVES CERTAIN APPLICATIONS FOR WRIT OF HABEAS CORPUS.

JUDGE ALCALA INDICATED THAT THE COURT HAS ADOPTED INTERNAL PROCEDURES THAT CONFLICT WITH STATUTORY AND CONSTITUTIONAL

PROVISIONS REQUIRING A QUORUM OF THE JUDGES TO MAKE DECISIONS ON WHETHER HABEAS RELIEF SHOULD BE DENIED BY PERMITTING CERTAIN CATEGORIES OF HABEAS CASES TO BE DENIED BY A SINGLE JUDGE WITHOUT A VOTE BY THE ENBANC COURT. IN A SUBSTANTIAL NUMBER OF ARTICLE 11.07 HABEAS APPLICATIONS, THE COURT HAS RELEGATED ITS DECISION MAKING TO STAFF ATTORNEYS WHO DECIDE WHETHER ONLY A SINGLE JUDGE OR THIS COURT WILL DECIDE THE CASE OR WHETHER A QUORUM OF THE COURT WILL DECIDE IT. JUDGE ALCALA STATES THIS PRACTICE IS UNAUTHORIZED BY THE TEXAS CONSTITUTION AND THE CODE PROVISIONS THAT REQUIRE A QUORUM OF JUDGES TO DECIDE HABEAS APPLICATIONS, AND THAT REQUIREMENT IS NOT FULFILLED BY A STANDING ORDER OR PROXY PRE-VOTE, SIGHT UNSEEN ON WHOLE CATEGORIES OF CASES. JUDGE ALCALA DICTATES THAT THE TEXAS CONSTITUTION REQUIRES THAT THE COURT DECIDE THE APPLICATION, EITHER BY A PANEL OF THREE JUDGES OR BY THE ENBANC COURT. SEE TEX. CODE CRIM. PROC. ART. 11.07; TEX. CONST. ART. 5, SECTION 4(B).

NOTHING IN THE TEXAS CONSTITUTION OR STATUTES AUTHORIZES A SINGLE JUDGE IN THE ACTING ALONE TO DECIDE HABEAS APPLICATIONS.

JUDGE ALCALA STATES, IN THE EVENT AN OPINION IS NOT ISSUED, LIKE IN DIRECT APPEALS PROCEEDINGS, IN HABEAS CORPUS PROCEEDINGS, IT WAS NOT DECIDED IN CONFORMANCE WITH TEXAS LAW. TEX. CONST. ART. 5 SEC. 4(B).

THUS, IS IN VIOLATION OF THE QUORUM REQUIREMENT.

IN THE "INTEREST OF JUSTICE", MAY JUDGE ALCALA'S EXPERIENCE OF AND PRIOR ACKNOWLEDGMENT TO THIS ASSERTION, RESPECTFULLY URGE THIS COURT TO GRANT CERTIORARI ON THE BASIS OF "DIVERGENT DECISIONS" EMERGING FROM THE TEXAS SUPREME COURT. UNDER 28 U.S.C. § 1257(A), IN GERMANE ASPECTS, READ: A DECISION MAY BE REVIEWED BY THE SUPREME COURT BY WRIT OF CERTIORARI WHERE THE VALIDITY OF A "STATUTE" OF ANY STATE IS DRAWN IN QUESTION ON THE GROUND OF ITS BEING REPUGNANT TO THE CONSTITUTION, TREATIES, OR LAWS OF THE UNITED STATES. JACKSON ARGUES THAT THE LOWER COURTS' DECISIONS WERE ERRONEOUS. DUE PROCESS WAS NOT SATISFIED. ALTHOUGH, "GEARS SHIFTED" ONCE JACKSON PLED TRUE TO THE PRIOR CONVICTIONS USED FOR ENHANCEMENT PURPOSES, RELIEVING THE STATE OF ITS BURDEN TO PROVE ADMISSIBLE EVIDENCE THAT THE PRIOR CONVICTIONS EXIST.

FOLLOWING "THE YELLOW BRICK ROAD" TO THE STIPULATION OF EVIDENCE, THE RECORD AFFIRMATIVELY REFLECTS THAT JACKSON DID NOT STIPULATE THAT HE WAS LINKED TO THE PRIOR CONVICTIONS USED FOR ENHANCEMENT PURPOSES. JACKSON "SHIFTED" BACK TO FIRST GEAR, WHERE THE STATE MUST PRESENT ADMISSIBLE EVIDENCE, THAT JACKSON IS SUFFICIENTLY LINKED TO THE PRIOR CONVICTIONS USED FOR ENHANCEMENT PURPOSES, BY FINGERPRINTS, INCLUDING EXPERT TESTIMONY IDENTIFYING THEM AS IDENTICAL WITH KNOWN PRINTS OF JACKSON. BEYOND A REASONABLE DOUBT. SEE BRYANT - V - STATE 189 SW3D 397 (TEX. CRIM. APP. 2005). THE STATE FAILED IN ITS DUTY TO SUFFICIENTLY LINK JACKSON TO PRIOR CONVICTIONS USED FOR ENHANCEMENT PURPOSES. A NECESSARY, REQUIRED ELEMENT TO BE PROVEN BEYOND A REASONABLE DOUBT UNDER THE TEXAS ENHANCEMENT LAW STATUTE. JACKSON'S SENTENCE IS COMPRISED ON THIS AGGRAVATING FACTOR, BEYOND THE STATUTORY MAXIMUM AND IS NOT SATISFIED UNDER APPENDIX.

AS A MATTER OF LAW, IN ITS UNIQUE STYLE OF PRESENTATION, INVOLVING AND REGARDING THE QUESTIONS PRESENTED FOR REVIEW, THIS IS A NATIONAL IMPORTANCE, NOT ONLY FOR JACKSON, BUT TO OTHERS SIMILARLY SITUATED. THIS WRIT OF CERTIORARI IS VERY CLEAR ABOUT THE QUESTIONS ON WHICH JACKSON IS SEEKING REVIEW. THIS IS AN "END OF JUSTICE" PLEA. IF NOT NOW, WHEN?

Continuing To RESOLVE THE QUESTION AT THE CLEARLY ESTABLISHED STEP, MEANS THE LAW WILL NEVER GET ESTABLISHED.

IN CONCLUSION,

JACKSON HAS EXPLAINED WITH THE DEPTHS OF HIS SPIRITUAL ABILITY, SUPPORTED REASONS THAT THE LOWER COURTS' DECISIONS WERE ERRONEOUS.

INCLUSIFYING, THE TOTALITY OF THE CIRCUMSTANCES THAT UNDERMINE THE STATE COURT'S IMPOSITION OF PUNISHMENT, JACKSON "PRAYS" THAT THE REASONS SET FORTH ARE SUFFICIENT TO WARRANT THIS COURT'S DISCRETIONARY JURISDICTION AND GRANT CERTIORARI, RESPECTIVELY.

"Respectfully Submitted,"
Mr. Kenric Lavough Jackson Sr.
MR. KENRIC LAVOUGH JACKSON SENIOR

OCTOBER 12TH, 2023