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SUPREME COURT U.S.

ORIGINAL

23-7618

No. \_\_\_\_\_

IN THE

SUPREME COURT OF THE UNITED STATES

JESSE A. REYNOLDS — PETITIONER

vs.

TITUS COUNTY ET AL. — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO THE  
UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

---

PETITION FOR WRIT OF CERTIORARI

Jesse A. Reynolds

(Your Name)

39 County Road 3153

(Address)

Cookville, Texas 75558

(City, State, Zip Code)

(903) 717-5208

(Phone Number)

## QUESTION(S) PRESENTED

1. Is the Statute of Limitations tolled for being considered under the age of 18 or of unsound mind, because of fraud; relevant to the opinion of the Supreme Court in *Hardin v. Straub*?
2. Does Rule 60(b)(1) of the Federal Rules of Civil Procedure allow for a new trial for a judges mistake/error of law, that deprives the 6<sup>th</sup> amendment right to a fair trial; relevant to the opinion of the United States Supreme Court in *Kemp v. United States*?
3. Does the takings clause of the Fifth Amendment require local governments or states to compensate for personal/estate damages by taking property or deprivation of right to property; relevant to the 2<sup>nd</sup>, 5<sup>th</sup>, 6<sup>th</sup>, 8<sup>th</sup>, & 14<sup>th</sup> amendments, and the opinion of the United States Supreme Court in *Knick v. Township of Scott, Pennsylvania & First English Evangelical Lutheran Church v. Los Angeles County*?
4. Is Sovereign Immunity abrogated for discrimination under the Fair Housing Act/religious discrimination clause; or if 14<sup>th</sup> amendment due process and equal protection clauses have been deprived; relevant to the opinion of the United States Supreme Court in *Fitzpatrick vs. Bitzer*; or if the rights secured by the 2<sup>nd</sup>, 4<sup>th</sup>, 5<sup>th</sup>, 6<sup>th</sup>, 8<sup>th</sup>, and 14<sup>th</sup> amendments and Castle Law have been deprived?

5. Is Judicial Immunity absolute if housing discrimination, religious discrimination or fraud upon court has occurred for lawsuits filed in individual or official capacity; if the 14<sup>th</sup> amendment due process and equal protection clauses have been violated relevant to the opinion of the United States Supreme Court in *Fitzpatrick vs. Bitzer*?
  
6. Is Prosecutorial Immunity absolute if housing discrimination, religious discrimination or fraud upon court has occurred for lawsuits filed in individual or official capacity; if the 14<sup>th</sup> amendment due process and equal protection clauses have been violated relevant to the opinion of the United States Supreme Court in *Fitzpatrick vs. Bitzer*?

## **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:

Titus County

Titus County Sheriff's Office

Brian Lee, *Titus County Judge, Individually and in Official Capacity*

John Cobern, *Titus County Attorney, Individually and in Official Capacity*

## **RELATED CASES**

- *Reynolds v. Titus County, Et Al.*, No. 5:23-CV-99, U.S. District Court for the Eastern District of Texas. Judgment entered Nov. 29, 2023.
- *Reynolds v. Titus County, Et Al.*, No. 23-40700, U. S. Court of Appeals for the Fifth Circuit. Judgment entered Feb. 28, 2024.

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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 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.

## **JURISDICTION**

For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was February 28, 2024.

A timely petition for rehearing was denied by the United States Court of Appeals on the following date: March 19, 2024, and a copy of the order denying rehearing appears at Appendix C.

The jurisdiction of this Court is invoked under 28 U. S. C. §1254(1).

## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

**Amendment II:** A well regulated militia, being necessary to the security of a free state, the right of the people to keep and bear arms, shall not be infringed.

**Amendment IV:** The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

**Amendment V:** No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

**Amendment VI:** In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

**Amendment VIII:** Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

**Amendment XIV:** Section 1. 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 or 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.

TEX. CIV. PRAC. & REM. CODE 24.005. NOTICE TO VACATE PRIOR TO FILING EVICTION SUIT.

TEX. CIV. PRAC. & REM. CODE 24.0061. WRIT OF POSSESSION.

TEX. CIV. PRAC. & REM. CODE 30.02. BURGLARY.

TEX. PENAL CODE, CHAPTER 9., SUBCHAPTER C., Sec. 9.31. SELF DEFENSE.

TEXAS DEPARTMENT OF STATE HEALTH SERVICES.

TEXAS DEPARTMENT OF AGING AND DISABILITY

TEXAS PERSONS WITH MENTAL RETARDATION ACT OF 1965

TEX. CODE OF CRIM. PROC. CHAPTER 46B., SUBCHAPTER D., ART. 46B.071. OPTIONS ON DETERMINATION OF INCOMPETENCY.

ART. 46B.0711 (b)(2)

TEX. CODE OF CRIM. PROC., CHAPTER 46B., SUBCHAPTER B., ART. 46B.021(f)

TEXAS CODE OF CRIM. PROC. CHAPTER 46B., SUBCHAPTER C.

TEX. CIV. PRAC. & REM. CODE 16.001. EFFECT OF DISABILITY. (a)(2)

TEX. CIV. PRAC. & REM. CODE 16.004. FOUR YEAR LIMITATIONS PERIOD. (a)(4)

RULE 60 (b)(1)

THE TEX. CONST., ART. 5., SEC. 15

THE FAIR HOUSING ACT, 42 U.S.C 3601

42 U.S.C 5309(a)

TEX. PROP. CODE, Sec. 92.0081. REMOVAL OF PROPERTY AND EXCLUSION OF  
RESIDENTIAL TENANT.

## STATEMENT OF THE CASE

The decisions of the lower courts conflicts with the decision of the United States Supreme Court in *Hardin vs. Straub*, 490 U.S. 536 (1989) and *Board of Regents, University of New York vs. Tomanio*, 446 U.S. 478 (1980).. The lower courts are ignoring evidence of fraud and incompetency for court; found in" **exhibits D-E, G and H**" of Appendix D and in the record on appeal. The lower courts cannot ignore the decisions of the United States Supreme Court, because of the Supremacy Clause.

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## PETITIONER'S FRAUDULENT ARREST

There were burglars at the petitioner's house at the time of his arrival on Aug. 18, 2017.

One of the burglars attempted to attack the petitioner at his vehicle before he could exit. The petitioner defended himself appropriately; the local police were called by the burglars who had locked themselves in the petitioner's home.

The burglars did not press charges on the petitioner. The petitioner was arrested for fraudulent misdemeanor charges made by the county deputy. The burglars were allowed to leave without arrest or felony charges.

The county deputy falsely arrested the petitioner for fraudulent misdemeanor charges that were later dismissed, without a trial; to cover up civil rights violations made by police at the petitioner's house. The county deputy took the petitioner's firearm, without a weapons charge. The officers did not arrest the burglars for felony violations.

The petitioner's house was broken into and his property was being removed without a **notice to vacate** or a **writ of possession**.

*TEX. CIV. PRAC. & REM. CODE 24.005. NOTICE TO VACATE PRIOR TO FILING  
EVICTION SUIT.*

*TEX. CIV. PRAC. & REM. CODE 24.0061. WRIT OF POSSESSION.*

*TEX. CIV. PRAC. & REM. CODE 30.02. BURGLARY.*

The fact that the burglars were not arrested is a 14<sup>th</sup> amendment violation for equal protection of law. Why does the law not apply to burglars in Titus County, Texas?

This violates the 2<sup>nd</sup>, 4<sup>th</sup>, 5<sup>th</sup>, 6<sup>th</sup>, 8<sup>th</sup> and 14<sup>th</sup> amendment rights.

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#### **FRAUDULENT COURT PROCEEDINGS IN STATE/COUNTY COURT**

County Attorney, John Cobern, knew of the civil rights violations recorded in the “**police report**” and he did not drop the charges against the petitioner or proceed to trial where the “**statements of the burglars**” recorded in the “**police report**” would have exonerated the petitioner for 14<sup>th</sup> amendment violations at the petitioners home and violations of the **castle law**;

*TEX. PENAL CODE, CHAPTER 9., SUBCHAPTER C., Sec. 9.31. SELF DEFENSE. (a)(1-3) and Subsections (c)(1-2), (d), (e), and (f).*

The **castle law** designates a person’s abode or any legally occupied place (for example, an automobile or a home) as a place in which that person has protections and immunities permitting one, in certain circumstances, to use force (up to and including deadly force) to defend oneself against an intruder, free from legal prosecution for the consequences of the force used.

The county judge also knew of the civil rights violations made at the time of the arrest.

A trial was never scheduled after nearly two years of being on the docket list.

The case was dismissed based on a fraudulent competency exam; that also never went to a competency trial. That is two violations of the 6<sup>th</sup> amendment right to a fair trial in Titus County; the first for the original court proceeding and the second for the competency trial. The county officials were under oath and conspired to cover up the police misconduct and civil rights violations at the time of the petitioner's fraudulent arrest, while defending his home and property, by disregarding the petitioner's civil rights and protecting the interest of the county by creating a false trial, and disabling the petitioner from proceeding to trial to present evidence, recorded in the "**police report**", that would exonerate the petitioner for police misconduct and civil rights violations made while the petitioner's home was burglarized.

The "**statements of the burglars**" are recorded in the "**police report**". The burglars state that they were removing the petitioner's belongings, illegally. The statements are recorded in the "**police report**" on pages 23-40700.54-58 of the record on appeal. The "**statements of the burglars**" are attached in Appendix D.

This is a 14<sup>th</sup> amendment violation for equal protection of law made by county officials.

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#### FRAUDULENT COMPETENCY EXAM

County Judge, Brian Lee, deprived the petitioner of his 6<sup>th</sup> amendment right to a fair trial, when he filed an "**order to have the petitioner evaluated for competency**" by an out of network court appointed psychologist; without giving evidence for his order or providing a reason for the competency evaluation. A tactic used by the court to avoid trial and hide the 14<sup>th</sup> amendment equal protection violations made at the petitioners house, while the home was burglarized.

The county has a mental health facility at the county hospital. However, the county judge did not request the services of the county medical doctors or hospital; the petitioner was ordered to be evaluated at the county court appointed attorney's office.

The out of network court appointed physician quotes an out dated health standard and also states that the examinee would be restorable in the foreseeable future. The court appointed psychologist did not take medical test required by state law.

The out of network court appointed psychologist based the exam on the *Texas Persons with Mental Retardation Act of 1965*; an outdated health standard that was abolished on Sept. 1, 2004 by the *Texas Department of Aging and Disability* and the *Texas Department of State Health Services*.

The last page of the "**court appointed psychologist report**" is attached in Appendix D with the "**Judge's order/exhibit F**". The report can be found in the record on appeal, pages 23-40700.76-80. The judge's fraudulent order can be found on 23-40700.60 of the record on appeal.

The last line of the report states that the examinee would be restorable in the near future, yet the state court made the decision not to order restoration services required by state law and continue to trial, where the petitioner would have presented evidence found in the "**police report**" regarding the burglary of his home and the *14<sup>th</sup> amendment equal protection violations* made by the sheriff's deputy.

The state statute requiring courts to provide competency restoration services to people found to be restorable in the near future is;

*TEX. CODE OF CRIM. PROC. CHAPTER 46B., SUBCHAPTER D., Art. 46B.071. OPTIONS ON DETERMINATION OF INCOMPETENCY*; on determination that a defendant

is incompetent to stand trial, the court shall: (1) if the defendant is charged with an offense punishable as a class b misdemeanor: (A) release the defendant on bail under Article 46B.0711.

The petitioner was released on bail according to *Art. 46B.0711(b)(1)*.

However, the 60 days of outpatient competency restoration services, required by *Art. 46B.0711 (b)(2)* was not ordered by the court and the petitioner was left to find a way to clear his good name over the next four years. The petitioner states in his "***motion for summary judgment***", that he had to sale a home because of the injury to his estate; and loss of time and working years. The "***motion for summary judgment***" is attached in Appendix D and can be found in the record on appeal; pages 23-40700.46-51.

It is the fault of the county court and county officials that the petitioner's estate was injured.

The petitioner has proof from the county hospital that proves he was competent by a licensed physician. The "***physicians report/exhibit G***" is attached in Appendix D and can be found in the record on appeal; pages 23-40700.61.

The date of the "***physicians report/exhibit G***" clearing the petitioner for competency was Feb. 20, 2019.

The date of the "***judge's fraudulent order for evaluation/exhibit F***" was Mar. 6, 2019.

*TEX. CODE OF CRIM. PROC., CHAPTER 46B., SUBCHAPTER B., Art. 46B.021(f)*; allows a defendant to be examined by an expert of the defendant's own choice. This wasn't allowed.

Evidence in the "***physicians' report/exhibit G***" that states the petitioner was competent after many hours of observation, could not be presented. Court officials suppressed the case and avoided the 14<sup>th</sup> amendment violations made by the county police while arresting

the petitioner, while his home was burglarized. The county did not arrest the burglars.

The process of law stipulated in *CHAPTER 46B* was violated. The petitioner received a legal handicap/injury until record of the "***dismissal/exhibit D-E***" could be ***expunged***.

The public record of dismissal kept the petitioner from gaining employment or the sales of firearms and ammunition from May 20, 2019 – July 24, 2023; 4 years.

The order for "***dismissal/exhibit D-E***" tolls the statute of limitations for legal handicap;

*TEX. CIV. PRAC. & REM. CODE, SUBCHAPTER A., Sec. 16.001 EFFECT OF DISABILITY. (a) (2), Sec. 16.004. FOUR YEAR LIMITATIONS PERIOD. (a) (5).*

The order for "***dismissal/exhibit D-E***" is attached in Appendix D and can be found in the record on appeal; page 23-40700.59.

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#### FRAUDULENT COMPETENCY HEARING

The County Judge also deprived the plaintiff of his civil rights when a trial regarding competency wasn't allowed; a deprivation of the petitioner's right to a fair trial secured by the 6<sup>th</sup> amendment

The competency trial, required by *TEXAS CODE OF CRIM. PROC. CHAPTER 46B., SUBCHAPTER C.*, wasn't allowed.

The plaintiff nor his attorney were not notified of the court's decision to dismiss the case based on a fraudulent competency exam; and a competency hearing that never happened and never went to a trial. The petitioner's court appointed "***attorney's statement/exhibit H***" is attached in Appendix D and can be found on pages 23-40700.62-63.

The dismissal of the charges without a trial, without regarding the conflicting evidence, or consideration of the 14<sup>th</sup> amendment violations is a deprivation of the 6<sup>th</sup> amendment right

to a fair trial. Abusing the court system to fraud a citizen is known as fraud upon court.

The county deprived the petitioner of his 2<sup>nd</sup>, 5<sup>th</sup>, 6<sup>th</sup>, 8<sup>th</sup>, and 14<sup>th</sup> amendment rights.

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## TAKINGS

The petitioner lost the right to work from the date of his arrest until the date of the case being expunged from the county's archives. Aug. 18, 2017 – July 24, 2023.

The petitioner lost his firearm, the right to own a firearm, and the right to sales of firearms and ammunition from the date of his arrest until the record was expunged on July 24, 2023.

The petitioner lost his firearm right for a violation of a protective order that was filed without a trial by one of the burglars. The petitioner's vehicle was left at the house, after his fraudulent arrest. He was arrested again, for returning to the home to retrieve his vehicle and wallet to pay the bail bondsmen; *United States vs. Rahimi*.

The petitioner also lost his firearm right for the fraudulent order for "***dismissal/exhibit D-E***" based on a fraudulent competency evaluation, without a hearing or a trial.

This violates the 2<sup>nd</sup> amendment; right to keep firearms.

This violates the 4<sup>th</sup> amendment; right to be secure from unreasonable searches and seizures.

This violates the 5<sup>th</sup> amendment; no person shall be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

This violates the 6<sup>th</sup> amendment; right to a speedy and public trial, by an impartial jury to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

This violates the 8<sup>th</sup> amendments cruel and unusual punishments clause.

Writ of Attainder, 4 years versus 60 days of outpatient restoration services; or no restorations services at all if the case had proceeded to trial. \*

This violates the 14<sup>th</sup> amendment; no state shall make or enforce any law which shall abridge the privileges or 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.

The petitioner lost the opportunity to invest in businesses; such as a shipyard, aerospace and defense, metals and materials, agriculture, transportation.

The Supreme Court decided in *Knick vs. Township of Scott, Pennsylvania*, 588 U.S. (2019) that a government violates the Takings Clause when it takes property without compensation, and a property owner may then bring a Fifth Amendment claim under 42 U.S.C 1983.

The Supreme Court decided in *First English Evangelical Lutheran Church vs. Los Angeles County*, 482 U.S. 304 (1987) that the complete destruction of the value of property constituted a taking under the Fifth Amendment even if that taking was temporary and the property was later restored.

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## COMPENSATION

The petitioner states in his Accounting of Relief Requested, page 100-102 of the record on appeal, filed Oct. 19, 2023, that the total damage to his estate is \$87,054,518,750.00 for loss of earning capacity, loss of right to trade or possess certain property (firearms & ammunition), loss of planned estate, loss of time and working years, liquidation of growing

real estate investment, loss of opportunity, loss of wages, legal handicap, cruel and unusual punishment (time), and damage to reputation.

A jury in Titus County, Texas awarded the family of Toni Combest \$730 million. Toni Combest was a 73 year old grandmother, who was killed by an oversized-cargo truck hauling a U.S. Navy nuclear submarine propeller on Feb. 21, 2016. This is one of highest wrongful-death awards in the nation. The trucking company was held liable for Toni Combest's death.

***Titus County District Court, case number: 40068; Family of Toni Combest vs. Landstar Ranger, S&M Pilot Service and 2A Pilot Cars.***

The petitioner was arrested in Titus County and has brought this lawsuit because of fraud upon court; fraudulent arrest and fraudulent court proceedings in Titus County, Texas. The petitioner states in his Accounting of Relief Requested that he is willing to settle.

The time from the petitioners arrest until the subject was expunged was from Aug. 18, 2017 – July 24, 2023. 6 years that the county kept a fraudulently created record that kept the petitioner from gaining employment or working in the firearms and ammunition industry; a key to the petitioners planned estate.

The petitioner states that he is willing to settle for an amount based on the application of the same logic from the Combest trial in Titus County, Texas; or on an agreement.

If Mrs. Combest would have lived to 98, that is 25 years of life she and her family lost because of her untimely death on Feb. 21, 2016.

On Nov. 22, 2021 Titus County awarded Ms. Combest family \$730 million / 25 years = \$29,200,000.00

The petitioner states that he lost 6 years of his working life, and sold estate property;

because of fraud upon court in Titus County.

\$29,200,000.00 x 6 years = \$175,200,000.00

The petitioner is an engineering designer. His resume is referenced on pages 23-40700.89-93 of the record on appeal.

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#### FEDERAL DISTRICT COURT

The Federal District Judge erred by not acknowledging the "*motion for summary judgment*" or evidence. The Federal District Judge ignored evidence "*dismissal/exhibit D&E*"; that proves that the petitioner's criminal case was dismissed because of competency in Titus County, Texas. "**Exhibit D&E**" was timely filed in support of the petitioner's "*motion for summary judgment*"; with evidence that proves fraud, on Oct. 12, 2012.

The ignored evidence, "*exhibit D&E, F, G and H*", and the "*motion for summary judgment*" are attached in Appendix D with the "*statements of the burglars*" in the "*police report*".

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#### FEDERAL APPEALS COURT

The Federal Appeals Court made the same mistake as the Federal District Court and did not apply state tolling statutes required for legal handicap or fraud.

The ignored evidence, "*exhibit D&E, F, G and H*", and the "*motion for summary judgment*" are attached in Appendix D with the "*statements of the burglars*" in the "*police report*".

## TOLLING OF THE STATUTE OF LIMITATIONS

The judges erred by ignoring evidence of the county's "***fraudulent order for dismissal/exhibit D&E***" timely filed on Oct. 12, 2023 with the "***motion for summary judgment***"; that suggest that the petitioners fraudulent trial in Titus County, Texas was dismissed for incompetency/unsound mind, so that the county could cover up 14<sup>th</sup> amendment equal protection of law violations at the time of the petitioners arrest by not proceeding to trial. The petitioner states that the decision of the judge to dismiss the trial based on a fraudulent competency report was fraud upon his estate and has proof of competency in the "***physicians' report/exhibit G***"; filed on Oct. 12, 2023 with the "***motion for summary judgment***". The report was not allowed to be presented because there was no trial and the county did not notify the petitioner's attorney of the dismissal, without a hearing or a fair trial.

"***Exhibit D&E***" and "***exhibit G***" are attached in Appendix D with evidence of the county's decision not to have a competency trial. Based on the evidence the county would have had to continue to trial where police violations during the arrest would have exonerated the petitioner for 14<sup>th</sup> amendment due process violations, while burglars removed the petitioner's property from the home, without charges filed against the burglars.

This is a violation of the 6<sup>th</sup> amendment right to a fair trial.

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## JUDICIAL ERROR

The Federal District Judge and Appeal Judges erred by ignoring "***exhibit D&E***" and "***exhibit G***" found in Appendix D, and not applying the state tolling statutes for fraud or for incompetency, referenced in the "***motion for summary judgment***" on pages 23-40700.48-

49 of the record on appeal, in the ***Appeal Brief*** on pages 9, 14 and in the ***Petition for En Banc Review*** on pages 6, 8-9, 11, 12. The “***motion for summary judgment***” is included in Appendix D.

The Federal Appeal Judges also erred by ignoring the petition for en banc review; and treating the petition for en banc review as panel review.

*TEX. CIV. PRAC. & REM. CODE 16.001. EFFECT OF DISABILITY. (a)(2)*

*TEX. CIV. PRAC. & REM. CODE 16.004. FOUR YEAR LIMITATIONS PERIOD. (a)(4)*

In ***Hardin vs. Straub, 490 U.S. 536 (1989)*** the Supreme Court decided that a federal court applying a state statute of limitations to an inmate’s federal civil rights action should give effect to the State’s provision tolling the limitations period for prisoners. The Court of Appeals’ ruling to the contrary conflicts with ***Board of Regents, University of New York vs. Tomanio, 446 U.S. 478 (1980)*** which held that limitations periods in 1983 suits are to be determined by reference to the appropriate state statute of limitations and the coordinate tolling rules.

The decisions of the Federal District Court and Federal Appeals Court contradict the decision of the Supreme Court in ***Hardin vs. Straub, 490 U.S. 536 (1989)***.

In ***Kemp vs. United States, 596 U.S. (2022)*** the Supreme Court decided that the term “mistake” in *Rule 60(b)(1)* includes a judge’s error of law.

*Rule 60(b)* allows relief from a judgment or order for the following reasons: (1) mistake, (2) newly discovered evidence, (3) fraud.

In ***Clyce vs. Butler, (5<sup>th</sup> Cir. 2017)*** the 5<sup>th</sup> Circuit made the decision that the district court could not create an exception to Texas’ tolling provision to its statute of limitations.

*TEX. CIV. PRAC. & REM. CODE 16.001. & 16.004.*

## NOTICE OF INJURY

The petitioner was unaware of the injury to his estate until he received notification from the County that he could not own a firearm because of the fraudulent order for dismissal recorded in the County's archives; "**dismissal/exhibit D-E**" Evidence of the injury, "**exhibit B**" can be found on page 23-40700.53 of the record on appeal and in Appendix D with "**exhibit D&E**" and evidence of fraud and 6<sup>th</sup> amendment violations for the right to a fair trial; in the "**attorney's statement/exhibit H**" and the "**physicians' report/exhibit G**".

The date of the notification of injury based on the letter from the county's sheriff's office is June 25, 2020.

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## FRAUD

*TEX. CIV. PRAC. & REM. CODE 16.004. FOUR YEAR LIMITATIONS PERIOD.* (a) A person must bring suit on the following actions not later than four years after the date of the cause of action accrues :(4) fraud;

The date the petitioner learned of the injury was June 25, 2020; recorded in "**exhibit B**".

The petitioner filed the lawsuit timely; in Federal District Court on Sep. 26, 2023.

Applying the tolling provision for fraud in Texas; the last day to file the lawsuit is June 25, 2024.

The judges erred by not applying the tolling provision for fraud.

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## TOLLING DATES

*TEX. CIV. PRAC. & REM. CODE 16.001. EFFECT OF DISABILITY.* (a) For the purpose of

this subchapter, a person is under a legal disability if the person is: (1) younger than 18 years of age; or (2) of unsound mind.

The county's "***fraudulent order for dismissal/exhibit D&E***" gives the petitioner a legal handicap until the record can be removed. This is fraud, at the fault of the county and county officials, that also tolls the statute of limitations for legal handicap. "***Exhibit D&E***" is attached in Appendix D.

The date of expungement was July 24, 2023. The "***order granting expungement /exhibit A***" can be found on page 23-40700.52 of the record on appeal and in Appendix D.

After the "***order granting expungement /exhibit A***" was entered it effectively erased the record of the county's fraudulent dismissal for incompetency and the petitioner was no longer considered to be under a legal disability; according to *TEX. CIV. PRAC. & REM. CODE 16.001*.

The petitioner filed the lawsuit timely; in Federal District Court on Sep. 26, 2023.

The time for filing, with expungement and tolling for incompetency, is two years based on *TEX. CIV. PRAC. & REM. CODE 16.003*. The statute of limitations begins to accrue at the date the petitioner legally regains competency. The petitioner was never incompetent and has attached proof in Appendix D of fraud upon court in Titus County, Texas.

The last day to file the lawsuit with the tolling provision applied in Sec. 16.001 is July 24, 2025.

The last day to file the lawsuit with the tolling provision applied in Sec. 16.004 is July 24, 2027.

The judges erred by not applying the tolling statutes for incompetency or for fraud.

## IMMUNITY

The lower court judges erred by dismissing the lawsuit against the county judge for Judicial Immunity. The action and inaction of the county judge broke the law of the State of Texas. *TEX. CODE OF CRIM. PROC. CHAPTER 46B.*, *Art. 46B.0711 (b)(2)* stipulates that 60 days of competency restoration services are required; the services were not ordered by the court. This left the petitioner with a legal handicap for 4 years. This violates due process clauses of the 5<sup>th</sup> and 14<sup>th</sup> amendment, 14<sup>th</sup> amendment equal protection right and the 8<sup>th</sup> amendment. This also violates the petitioners 2<sup>nd</sup> amendment right to a firearm and the takings clause of the 5<sup>th</sup> amendment.

The Department of Justice states in a publication on the agency's website that, "various types of acts are no longer recognized as judicial conduct within the protection of immunity: (1) acts showing lack of good faith; (2) Acts criminal in nature; (3) acts in absence of authority or in excess of jurisdiction; and (4) acts of an administrative or ministerial nature.

The "**Department of Justice publication/exhibit Q**" can be found on page 23-40700.95-97 of the record on appeal.

*THE TEX. CONST., ART. 5., Sec. 15., and judge-qualifications-and-selection-chart\_07262022* state that judges in the Constitutional County Courts, ""shall be well informed of in the law of the State." (Law licensed not required.)". It is a violation of the petitioner's 6<sup>th</sup> amendment right to a fair trial, to allow a person uneducated in the law to preside over the State's court.

The lower court judges erred by dismissing the lawsuit against the county prosecutor for Prosecutorial Immunity. The county prosecuting attorney did not drop the charges or seek charges against the burglars of the petitioner's home. This is a 14<sup>th</sup> amendment violation

made by the sheriff and continued by county court officials for equal protection of law. The equal protection of law violations recorded in the "**statements of the burglars**" would have exonerated the petitioner, if a trial had been scheduled; for the fact that the petitioner was innocent and practicing his right to self defense at the time of his arrest; there were procedural errors that violated the petitioners rights at the time of his arrest and at the time of the fraudulent dismissal of charges that left the petitioner with a legal handicap. The petitioner's right to self defense is secured by *TEX. PENAL CODE, CHAPTER 9., SUBCHAPTER C., Sec. 9.31. SELF DEFENSE. (a)(1-3) and Subsections (c)(1-2), (d), (e), and(f).*

The county prosecuting attorney broke the law of the State of Texas. *TEX. CODE OF CRIM. PROC. CHAPTER 46B., Art. 46B.0711 (b)(2)* stipulates that 60 days of competency restoration services are required; the services were not ordered by the court. This left the petitioner with a legal handicap for 4 years. This violates due process clauses of the 5<sup>th</sup> and 14<sup>th</sup> amendment, 14<sup>th</sup> amendment equal protection right and the 8<sup>th</sup> amendment. This also violates the petitioners 2<sup>nd</sup> amendment right to a firearm and the takings clause of the 5<sup>th</sup> amendment. A competency hearing was not held and the petitioner lost his right to have a physician of his own choosing evaluate him for competency, secured by state statute *Art. 46B.021(f); or use of the "physician's report/exhibit G"* as evidence of his competency to continue the trial and present evidence of 14<sup>th</sup> amendment violations. The county withheld the evidence in the "**police report**" and the "**statements of the burglars**"; until the petitioner was able to get a copy from his court appointed attorney by filing a complaint with

the State Bar; “**Grievance No. 202004696/exhibit H**”, after the dismissal of his case in State court. This violates the 6<sup>th</sup> amendment.

The Department of Justice states in a publication on the agency’s website that, “The U.S. Supreme Court’s decision in *Buckley v. Fitzsimmons*, 113 S.Ct. 2606 (1993), points to a growing recognition of the difficulty of maintaining absolute prosecutorial immunity when the system imprisons the wrong person for the wrong reason, i.e., when exculpatory evidence has been concealed or incriminating evidence has been fabricated.”

The “**Department of Justice publication/exhibit R**” can be found on page 23-40700.98-99 of the record on appeal.

The Supreme Court decided in *Lincoln County vs. Luning*, 133 U.S. 529 (1890) that the Eleventh Amendment to the Constitution does not operate to prevent counties in a state from being sued in federal court. Counties cannot apply state sovereign immunity to bar lawsuits made in federal court.

The Fair Housing Act, 42 U.S.C 3601, prohibits discrimination in housing based upon religion. The petitioner states that he was a member of the RLDS Church (Community of Christ.) His grandfather and deceased grandmother were priesthood members in the church. The petitioner states that the county officials allowed an illegal eviction because of religious discrimination; 42 U.S.C 5309(a).

Evidence of the petitioner’s membership and his grandmother’s priesthood in the church, can be found in the record on appeal on pages 23-40700.265-266 and 23-40700.267-270. Evidence of the petitioner’s deceased grandfather’s Masonic record, can be found in the record on appeal on pages 23-40700.263-264.

*TEX. PROP. CODE, Sec. 92.0081. REMOVAL OF PROPERTY AND EXCLUSION OF RESIDENTIAL TENANT.*, (b)(c)(f)(h). States that a landlord cannot change the locks or remove property without a judge's order. The petitioner's house was broken into and his property was being removed without a **notice to vacate** or a **writ of possession**.

*TEX. CIV. PRAC. & REM. CODE 24.005. NOTICE TO VACATE PRIOR TO FILING EVICTION SUIT.*

*TEX. CIV. PRAC. & REM. CODE 24.0061. WRIT OF POSSESSION.*

*TEX. CIV. PRAC. & REM. CODE 30.02. BURGLARY.*

In *Fitzpatrick v. Bitzer*, 427 U.S. 445 (1976) the Supreme Court of the United States held that the 14<sup>th</sup> amendment gives congress the power to override a State's 11<sup>th</sup> amendment sovereign immunity for the purpose of enforcing civil rights on the State.

## **REASONS FOR GRANTING THE PETITION**

This could happen to anyone that corrupt officials want to stop from gaining employment or starting their own business; or to punish them outside of the boundary of the law.

The burglars of the petitioner's home haven't been arrested for felony violation; there was never an eviction hearing because of the cover up of police civil rights violations at the time of the petitioner's fraudulent arrest for a misdemeanor.

The decision of the lower courts conflicts with the decision of the 5<sup>th</sup> Circuit in *Clyce vs. Butler, (5<sup>th</sup> Cir. 2017)*.

The decision of the lower courts conflicts with the decisions of the United States Supreme Court in *Hardin vs. Straub, 490 U.S. 536 (1989)* and *Board of Regents, University of New York vs. Tomanio, 446 U.S. 478 (1980)*.

TEX. CIV. PRAC. & REM. CODE 16.001. EFFECT OF DISABILITY. (a)(2)

TEX. CIV. PRAC. & REM. CODE 16.004. FOUR YEAR LIMITATIONS PERIOD. (a)(4)

The lower courts cannot ignore the decisions of the United States Supreme Court, because of the Supremacy Clause.

## **CONCLUSION**

The petition for a writ of certiorari should be granted.

Respectfully submitted,

  
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Date: 05/23/2024