

No. 24-5137

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES

Supreme Court, U.S.
FILED
JUL 05 2024
OFFICE OF THE CLERK

OGAZ, GERARDO — PETITIONER
(Your Name)

vs.

TEXAS — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

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

PETITION FOR WRIT OF CERTIORARI

GERARDO OGAZ
(Your Name)

12071 FM 3522
(Address)

Abilene, Texas 79601
(City, State, Zip Code)

N.A.
(Phone Number)

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QUESTION(S) PRESENTED

Did the Court err Concluding that Frivolous was the appeal in accordance with Anders v. California 386 U.S. 738 (1967) when it was presented to it a mirror published Case remanded?

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

Ogaz v. State NO. 08-19-00137-CR, Court of Appeals of Texas, 8th District, El Paso. Judgment entered June 18, 2021

Ex Parte Ogaz, NO. WR-94,479-02, Court of Criminal Appeals, Judgment entered March 6, 2024.

Ogaz, v. Crozby, 2023 U.S. District NO. PE:23-CV-00030-DC, U.S. District Court for the Western District of Texas, Pecos Division, Judgment entered August 28, 2023

In re Ogaz, PD-0261-24, Court Criminal Appeals, Judgment entered May 1, 2024

In re Ogaz, PD-0261-24, Court of Criminal Appeals, Judgment entered June 12, 2024

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CASES

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STATUTES AND RULES

N.A.

OTHER

N.A.

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☐ is unpublished.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☐ is unpublished.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 8th District of El Paso, 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 _____.
A copy of that decision appears at Appendix A .

☐ A timely petition for rehearing was thereafter denied on the following date: _____, 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 N.A. (date) on N.A. (date) in Application No. N/A .

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Fourth Amendment of the U.S. Constitution

Sixth Amendment of the U.S. Constitution

Fourteenth Amendment of the U.S. Constitution

STATEMENT OF THE CASE

Petitioner was pulled over March 9th, 2018, was placed under arrest for D.W.I., a warrant was sought and the warrant issued directing the officer to have the blood drawn in Hudspeth County but the officer instead took petitioner to Culberson County to draw it. On direct the 8th Court of Appeals, El Paso district, concluded the appeal was frivolous in accordance with *Anders v. California*. A Petition for discretionary review was filed in the State's highest Court arguing the warrant for the blood draw under the 4th and 14th Amendment was without probable cause in accordance with *Crider v. State* and *State v. Jordan*, a bookend case as this one, the appeal was not frivolous, but its like they did not read the petition. *Crider* was remanded, it cites federal law.

REASONS FOR GRANTING THE PETITION

Anders v. California, 386 U.S. 738 (1967) allows pro se appellants to raise and point out non-frivolous errors, Bledsoe v. State, 178 S.W.3d 824 (Tex. crim. app. 2005) holds "Appellant is free to file a petition for discretionary review claiming the Court of appeals erred in holding that there were no arguable grounds for review." Crider v. State is a bookend case as this one in issue, Crider v. State, 352 S.W.3d 704 (Tex. crim. app. 2011) in which for the same exact mirror facts was remanded back to the State Court of appeals and granted new trial.

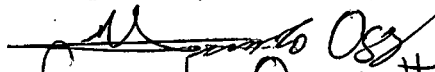
The Court needs to address this issue, because if indigent raise non-frivolous errors but the appeals courts disregards Anders holdings then Anders is not being taken serious.

In Crider, id the affidavit was signed 06-06-2008 and the warrant was signed 06-07-2008 holding "Nothing in the affidavit indicates whether it was light or dark outside." It mirror's petitioner's case, petitioner's affidavit was signed March 9th 2018 and the warrant signed March 10th 2018 and no indication of time of date can be assumed in the four corners of the affidavit, holding, while the gap could have been about an one hour, it also could have been as much as twenty five hours.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,


Gerardo Ogaz #2261968

Date: June 23, 2024