

No. 24-5257

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES

Supreme Court, U.S.
FILED

AUG - 1 2024

OFFICE OF THE CLERK

Miguel Aguilar, Jr. — PETITIONER
(Your Name)

vs.

THE STATE OF TEXAS — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

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

PETITION FOR WRIT OF CERTIORARI

Miguel Aguilar, Jr.
(Your Name)

2101 Fm 369 NORTH
(Address)

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

N/A
(Phone Number)

QUESTION(S) PRESENTED

WHERE THE TEXAS CONSTITUTION CREATES A RIGHT TO HABEAS CORPUS UNDER ARTICLE I, SECTION 12, AND LEGISLATIVE STATUTE TCCP ARTICLE 11.07, SECTION 3 DICTATES THE TRIAL COURT'S MINISTERIAL DUTY TO RESOLVE ANY CONTROVERTED ISSUE(S) ASSOCIATED WITH THE SUBMISSION OF AN APPLICATION FOR HABEAS CORPUS, THEN HOW IS A COURT'S FAILURE TO COMPLY WITH MANDATED DUE PROCESS ALLOWED TO BE ACCEPTABLE BY THE JUDICIARY?

WITH THE STATE OF TEXAS BEING PART OF THE CONTIGUOUS UNITED STATES AND SUBJECT TO BE INCLUDED UNDER FEDERAL OVERSIGHT IN THE APPLICATION AND/OR MISAPPLICATION OF ANY CONSTITUTIONAL OR STATUTORY FEDERAL OR STATE LAW, HOW CAN THE STATE OF TEXAS LEGALLY, KNOWINGLY, AND WILLINGLY VIOLATE AND/OR IGNORE CONTROLLING LAW OF THE LAND WITHOUT PROPER REDRESS OR SANCTION?

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

TEXAS v MIGUEL AGUILAR, JR., NO. 2014 CR5001753 DY, 406TH DIST COURT & WEBB COUNTY, TX

JUDGEMENT ENTERED MAY 2, 2016.

IN RE MIGUEL AGUILAR, JR., NO. 04-16-00508-CR, FOURTH COURT OF APPEALS OF TX

JUDGEMENT ENTERED NOVEMBER 22, 2017

EX PARTE MIGUEL AGUILAR, JR., NO. WR-95, 763-01, COURT OF CRIMINAL APPEALS OF TX

JUDGEMENT ENTERED JUNE 26, 2024

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APPENDIX A - ARTICLE 11.07 APPLICATION AND SUPPORTING BRIEF	19 + 13 = 32 PGS TL
APPENDIX B - motion to Compel	2 PGS
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TABLE OF AUTHORITIES CITED

CASES

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Townsend v Sain, 372 US 293, 83 S.Ct. 745, 9 LEd 2d 770 (1963)

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Green v Beto, 384 US 269, 86 S.Ct. 1477

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Teag v Dulles, 78 S.Ct. 590, 644, 356 US 86, 103, 2 LEd 2d (1957)

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STATUTES AND RULES

TEXAS RULE OF APPELLATE PROCEDURE 78.4

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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 _____ 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 E 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 _____.

☐ 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 6/26/2024.
A copy of that decision appears at Appendix E.

☐ 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).

* PLEASE NOTE: TEXAS RULE OF APPELLATE PROCEDURE # 79.2 (d) PROHIBITS APPLICANTS FROM FILING A
MOTION FOR REHEARING ONCE A DENIAL OR DISMISSAL HAS BEEN ISSUED. BUT PETITIONER HERE HAS
FILED A REQUEST TO REHEAR ON THE COURT'S OWN MOTION DATED JULY 3, 2024

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

TEXAS CONSTITUTION ART. 1, § 10 - RIGHTS OF ACCUSED / CONFRONTATION CLAUSE / EFFECTIVE ASSISTANCE

" " ART. 1, § 12 - HABEAS CORPUS

" " ART. 1, § 19 - DUE COURSE OF LAW

" " ART. XVI, § 1(3) - OFFICIAL OATH OF OFFICE

TEXAS CODE OF CRIMINAL PROCEDURE ART. 1.04 - DUE COURSE OF LAW

" " " " ART. 1.05 - RIGHTS OF ACCUSED

" " " " ART. 1.08 - HABEAS CORPUS

" " " " ART. 2.03(b) - NEGLECT & DUTY

" " " " ART. 11.07 - HABEAS CORPUS

" " " " ART. 38.30(2) - RIGHT TO AN INTERPRETER

" " " " ART. 38.31(4)(2) - QUALIFIED INTERPRETER

TEXAS GOV'T CODE § 57.001 - CERTIFIED COURT INTERPRETER

" " § 57.002 - RIGHT TO A LICENSED INTERPRETER

" " § 311.016(2) (1998) - MANDATORY LANGUAGE

UNITED STATES CONSTITUTION AMENDMENT V - DUE PROCESS

" " " " AMENDMENT VI - CONFRONTATION CLAUSE / EFFECTIVE ASSISTANCE

" " " " AMENDMENT XIV - EQUAL PROTECTION

" " " " ARTICLE 1, SECTION 9, CLAUSE 2 - HABEAS CORPUS

TITLE 18 UNITED STATES CODE SECTION 242 - DEPRIVATION OF RIGHTS UNDER COLOR OF LAW

- WAS CONTRACTED TO REPRESENT PETITIONER UNTIL THE DAY OF POTENTIAL JURY VOTE DICE FOR
- TRIAL PURPOSES & WHICH HE FAILED TO INFORM BOTH HIS CLIENT AND THE COURT OF SAID
- SUSPENSION DURING AND ALL PRE-TRIAL PROCEEDINGS.
- THEN, UPON PETITIONER FILING FOR OUT OF TIME PETITION FOR DISCRETIONARY REVIEW & HIS
- DIRECT APPEAL TO OBTAIN A CASE NUMBER AND JUDGEMENT FOR FILING COMPLIANCE & HIS
- INTENDED ARTICLE 11.07 APPLICATION FOR NON-CAPITOL FELONY POST-CONVICTION HABEAS CORPUS RELIEF
- HE WAS NOTIFIED & APPELLATE COUNSEL'S INEFFECTIVE ASSISTANCE BY THE COURT OF CRIMINAL
- APPEALS OF TEXAS FOR HER FAILURE TO FILE AS SHE HAD NOTIFIED- EVEN REQUESTED EXTENSION
- & TIME - BUT NEVER DID (RE: PD-0224-18) (CORRESPONDENCE POSTMARKED 1/17/2024)
- ON APRIL 8, 2024 THE 406TH DISTRICT COURT OF WEBB COUNTY, TEXAS RECEIVED AND SIGNED
- FOR PETITIONER'S SUBMITTED ARTICLE 11.07 APPLICATION FOR NON-CAPITOL FELONY POST-CONVICTION
- HABEAS CORPUS RELIEF THAT HAD 7 GROUNDS FOR REDRESS AND WAS ACCOMPANIED BY A 13 PAGE
- SUPPLEMENTAL BRIEF & FACT & RECORD AND SUPPORTING CASE LAW [APPENDICE 'A'] TO WHICH
- TRIGGERED LEGISLATIVELY IMPOSED RESPONSABILITIES AND DEADLINES FOR THE RESOLUTION & CONTRO-
- VERSED ISSUES AT THE DISTRICT COURT LEVEL BEFORE FORWARDING TO THE COURT OF CRIMINAL
- APPEALS FOR FINAL DISPOSITION.
- WITHOUT THE RECEIPT & ANY TIMELY NOTIFICATIONS FROM THE DISTRICT COURT BY MAY 24,
- 2024 PETITIONER SUBMITTED A MOTION TO COMPEL [APPENDICE 'B'] TO SAID DISTRICT COURT WHO
- IN RETURN SIMPLY FORWARDED PETITIONER'S ARTICLE 11.07 APPLICATION TO THE COURT OF CRIMINAL
- APPEALS WITHOUT THE RESOLUTION OF THE CONTROVERSED ISSUES IN VIOLATION OF THEIR MINISTERIAL
- DUTY AND/OR STATUTORY LAW [APPENDICE 'C'] & WHICH PETITIONER SENT NOTICE TO THE
- COURT OF CRIMINAL APPEALS EXPRESSING SUCH [APPENDICE 'D'].
- THE COURT OF CRIMINAL APPEALS DENIED PETITIONER'S ORIGINAL ARTICLE 11.07 APPLICATION
- FOR NON-CAPITOL FELONY POST-CONVICTION HABEAS CORPUS RELIEF ON JUNE 6, 2024 WITHOUT
- WRITTEN ORDER [APPENDICE 'E'].

ACCORDINGLY, TEXAS RULE OF APPELLATE PROCEDURE 79.2(d) PROHIBITS APPLICANTS FROM FILING
A MOTION FOR REHEARING ONCE A DENIAL OR DISMISSAL HAS BEEN ISSUED, SO, PETITIONER HAS
SENT THE COURT OF CRIMINAL APPEALS A REQUEST TO REHEAR ON THEIR OWN MOTION [APPENDICE E]
THAT CLEARLY STATES THEIR MINISTERIAL DUTY ON JULY 3, 2024 WHILE AT THE SAME TIME
NOTIFYING YOUR HONORABLE COURT OF THE INTENT FOR APPEAL / CERTIORARI AS THE REQUEST
TO THE COURT OF CRIMINAL APPEALS IS NOT CONSIDERED A BINDING (F6A) MOTION.

REASONS FOR GRANTING THE PETITION

Both Federal and State Constitution(s) and Statutory Law(s) have created a right to Post Conviction Habeas Corpus relief for Petitioner who has followed all legislatively required steps to pursue such relief but has been denied due process in the state's failure to adhere to its ministerial duty(s) in said matter.

Petitioner has attempted to exercise his right to Habeas Corpus relief diligently (and belatedly) that as is required and after exhausting his remedy(s) at state level has determined that relief can now only be found in direct appeal and/or certiorari as legislatively authorized from the nation's highest court and is supported in theory in controlling case law opinions such as:

Ex Parte Yarbrough, 418 SW2d 824 (TexCrimApp 1967)

Townsend v Sain, 83 SCr 745, 372 US 293, 9 LEd 2d 770 (1963)

Green v Beto, 86 S.Ct. 1477, 384 US 269

Petitioner believes that the state not only abused its discretion in the trying and wrongful conviction of petitioner, but now is denying him due process that he is entitled to for remedy that is in accordance with both Federal and State Constitution(s) and Statutory Law(s).

According to *Trop v Dulles*, 78 S.Ct. 580, 644, 356 US 86, 103, 2 LEd 2d 630 (1957) we "are each bound to defend the Constitution...and... the provisions of the Constitution are not time worn adages or hollow shibboleths. They are vital living principles that authorize and limit governmental powers in our nation. They are rules of Govt..."