

No. 24 - 5398

FILED

AUG 01 2024

OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE
SUPREME COURT OF THE UNITED STATES

William Michael Talley — PETITIONER
(Your Name)

VS.

State Of Texas, et al — 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

William Michael Talley
(Your Name)

3801 Silo Road
(Address)

Bonham, Texas 75418
(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

- William Michael Talley, Petitioner, at 64 years of age, respectfully ask this Court to review the decision of the Texas Court of Criminal Appeals denial of State Habeas Corpus on May 15, 2024 TR. Ct. NO: 19238-A, WR-95, 309-01, without written order. The grounds presented are factually with merit, supported by the appendix attached. Tex. Code Crim. Proc. Art. 11.07
- Petitioner alleges that being his X-Brother-in-law is Upshur County Judge, who is close friends with 115 District Court Judge, and his Court Appointed Counsel, that both should have recused themselves.
- Petitioner alleges 115 District Judge refusal to rule on his Motion To Withdraw Plea of Guilt, filed March 9, 2023, violates his Fourteenth Amendment rights to Due Process. Petitioner's 30yr sentence was coerced to avoid 50yr offer from D.A.
- Petitioner ask this Court to review the indictment, where the same "Core Charge", was used as enhancement twice as clearly shown.
- Petitioner alleges Eighth Amendment violation, where at 64 years of age, a 30 year sentence clearly outweighs the harshness of amount of alleged substance 24grams
- Petitioner ask the Court for reviewal, where Counsel was acting under conflicting loyalties, by not arguing the suppression of evidence, at a hearing. He filed the motion, but didn't argue the facts
- Petitioner alleges Fourth Amendment violation, by the admission of illegally obtained evidence via warrantless traffic stop.

LIST OF PARTIES

[] All parties appear in the caption of the case on the cover page.

[x] 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:

Ex. Dir. Tex. Dept. Criminal Justice
Brian Collier
P.O.# 99
Huntsville, Texas 77342

Warden Charles Meador
Cole Unit
3801 Silo Road
Bonham, Texas 75418

Upshur County Texas
115 District Court Judge
Jerald Dean Fowler II
405 North Titus St.
Gilmer, Texas 75644

RELATED CASES

State Of Texas V. William Michael Talley,
Cause No: 19238, 115 District Court, Upshur County Texas
Judgement entered November 28, 2022

William Michael Talley V. Hon. Jerald Dean Fowler,
No: 12-23-00160-CR, Twelfth Court Of Appeals Of Texas
Judgement entered October 31, 2023 - Tyler, Texas

Re: William Michael Talley, CCA No: PD-0869-23, Court
Of Criminal Appeals. Decision entered December 7, 2023

Ex Parte William Michael Talley, CCA No: 19238-A, Court Of Criminal
Appeals of Texas, Austin, Texas, Judgement entered June 15, 2024
Crim. P. Art. 11.02

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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 C 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 Upshur County Texas 115 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 _____.

☐ 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 15, 2024
A copy of that decision appears at Appendix C.

☒ A timely petition for rehearing was thereafter denied on the following date: June 6, 2024, and a copy of the order denying rehearing appears at Appendix D.

☐ 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

The following statutory and constitutional provisions are involved in this case.

U.S. Constitutional Amend. IV - The right to be free from unlawful search and seizure. This amendment is why police need to have a warrant, or probable cause, to search you, or take your property.

U.S. Constitutional Amend. V - The right to due process. Due process basically means fair procedure, but the court has identified many elements under the right to due process.

U.S. Constitutional Amend. VI - The right to an impartial Judge and Jury. Also, the right to conflict free representation of counsel.

U.S. Constitutional Amend. VIII - The right to be free from excessive bail, and, or, cruel and unusual punishment.

U.S. Constitutional Amend. XIV - Guarantees the right to due process. "No State" shall deprive any person of life, liberty, or property without due process of law, or any person within its jurisdiction the equal protection of the laws.

Artical I, Sec 9, Tex. Const.

Art. 38.23 Tex. Code Cr. P.

Art I, Sec. 9, 10, 19 Const. of Tex.

Art. 38.22 Tex. Code Cr. P.

STATEMENT OF THE CASE

On November 28, 2022 William Michael Talley, petitioner, Plead Guilty to possession of Control Substance/with intent to deliver, Being coerced by his appointed counsel, to avoid a 50 year offer made by the state and was sentenced to 30 years for less than 9 grams of Meth. On March 9, 2023, Petitioner filed a Motion To Withdraw Plea of Guilt (Appendix attached). Petitioner's Plea of Guilt was not Voluntary, or a intelligent plea, made under Pure Cause No: 19238.

115 District Court, Upshur County Texas refused to make a ruling on this Motion. On ~~Apr~~ October 18, 2023 Petitioner filed with the Twelfth Court of Appeal, Tyler Texas, a Writ of Mandamus to Compell a ruling. Mandamus relief was denied in part for lack of record, and dismissed in part for Want of Jurisdiction. Case No 12-23-00160-CR. Petitioner on December 4, 2023, filed Petition for Discretionary Review C.C.A. No: PD-0869-23, which no action was taken, being advised this was the wrong path, for relief by the court, Petitioner filed Cr. P. Art. 11.07 which was denied without any review of the merits. Denied without written order. Case No: 19238-A, WR-95, 509-01. Denial date June 15, 2024.

William Michael Talley was pulled over, and arrested on a warrantless traffic stop. No drugs were found on his person, or his vehicle. A container was found in the trash can at Upshur County Jail. Petitioner's Counsel filed a Motion To Suppress Evidence, but did not argue the case at any type of hearing. Counsel said the Judge had over-heard the 30yr offer, and felt petitioner should take the offer.

The indictment for Cause: 19238, clearly shows the same "Core Charge" was used in paragraph A and B of enhancements. Basically sentencing petitioner three times for the same charge. Appendix attached. Petitioner's X-Brother-in-law of 20 years is Upshur County Judge Todd Tefteller. Both 115 District Judge Jerold Dean Fowler II, and Petitioner's Counsel, are personal friends. Appendix is a letter sent to the W.A.A.C.P, requesting appointment of counsel, in current Civil suit Petitioner has filed in U.S. Eastern District Court, Marshall Division. Petitioner asserts the harshness of at 64 yrs of age, a 30 years sentence for the amount of Control Substance in question shows political influence, Conflict of Interest, Conflicting loyalties and Bias Judgement, to facilitate the out come of Cause No: 2:23-CV-00163

REASONS FOR GRANTING THE PETITION

- Petitioner, William Michael Talley, moves this court to grant this petition on the Texas Court of Criminal Appeals, where his Writ of Habeas Corpus was denied without written order, denying him a full and fair hearing based on the factual merits presented. Sighting Townsend v. Sain 83 S.Ct. 745 (U.S. 11, 1963)
Under Townsend, Petitioner alleges facts which, "if proven," would entitle him to relief. Id. at 312, 83 S.Ct. 745. This mandate requires Petitioner to demonstrate that the state courts decision was contrary to, or involved an unreasonable application of, clearly established federal law.
- Petitioner's claim of Ineffective Assistance Of Counsel, where his Counsel failed to argue the Suppression of Evidence Motion he filed with the court, but at the last minute shows petitioner a photo that was A.I. generated, depicting Petitioner releasing a container while in Upshur County Jail. Telling Petitioner he will take another angle of defence. Tells Petitioner the Judge had overheard the plea agreement, and felt he should take it. This was not a voluntary plea of guilt, and not a true photo of petitioner. No drugs were found on petitioner, or his vehicle.
- United States v. Blount 291 F.3d 201, A defendant right to counsel, effective assistance of Counsel includes the right to be represented by an attorney, and judged in a court, that is free of Conflict of Interest. This right may be violated if the attorney has (1) a potential conflict of interest that resulted in the prejudice of the defendant, or (2) an actual conflict of interest that adversely affected the attorney's performance. Tillery v. Horn 142 Fed Appx 66
Petitioner's X-Brother-in-law of 20 years. Is Upshur County Judge Todd Tettler, who sentenced 115 District Court Judge Jerold Dean Fowler, to only 1yr probation for "DWI, causing bodily harm". Prejudicing of Petitioner's case with clear conflict of loyalties, Bias Judgement. Petitioner's Counsel is also personal friends with both Judges. Sixth Amendment Violation "Clearly".

Traditionally, Texas Courts have held that as long as the punishment is within the prescribed legislative range, the punishment is not excessive, cruel, or unusual. [Smedley v. State 99 S.W.3d 312 (Tex App Texarkana 2003) no pet] However, a limited review of sentences on the ground of disproportionate punishment exist under the Eighth Amendment, apart from any consideration of whether the punishment was within the range established by the legislature [See Hamelin v Michigan 501 U.S. 957, 996-997].

Ewing v. California 538 U.S. 11 123 S.Ct. 1179, 1189-1191 155 L Ed 2d 108 (2003), Ewell v. State 21 S.W.3d 870, 873. The required proportionality analysis under Eighth Amendment is guided by (1) the gravity of the offense and the harshness of the penalty (2) the sentences imposed for the same commission of crime in other jurisdictions.

At 64 years of age, a 30 year sentence imposed, with the misuse of enhancements as shown. Along with conflicting loyalties. The harshness of the punishment "clearly" out-weighs the gravity of the offense. Petitioner prays this most High Court of the Land, hear this plea and grant this Certiorari Review

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

William Michael Talley

Date: August 1, 2024