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No.

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ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

June Term, 2024

Mr. Clayton Reynolds — PETITIONER
(Your Name)

vs.

State of Texas — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

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

PETITION FOR WRIT OF CERTIORARI

Mr. Clayton Cornelius Reynolds
(Your Name) # 02432277

H.H. Loffield Unit 2661 FM 2054
(Address)

Tennessee Colony, Texas 75884
(City, State, Zip Code)

N/A
(Phone Number)

QUESTIONS PRESENTED

- 1) Did the Court of Appeals error by Allowing Appeal Counsel to file an Anders Brief when there was an obvious Preserved Appealable issue.
- 2) Trial Counsel's written Objection to the Certificate of Analysis was filed timely using Courts E-filing Managers System which Preserved this issue for appellate Review but it does not apply to this Petitioner why?

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:

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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 N/A to the petition and is

☐ reported at N/A; 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☐ is unpublished.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 N/A to the petition and is

☐ reported at N/A; 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☐ is unpublished.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 _____ to the petition and is

☒ reported at In re Reynolds, 2024 Tex. Crim. App. Lexis 191; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

The opinion of the Court of Appeals, Sixth District court appears at Appendix _____ to the petition and is

☒ reported at Reynolds v. STATE, 2023 Tex. App. Lexis 9663; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

1.

JURISDICTION

☐ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was N/A.

☐ 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: N/A, and a copy of the order denying rehearing appears at Appendix N/A.

☐ 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 N/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 Mar. 6, 2024.
A copy of that decision appears at Appendix _____.

NA

☒ A timely petition for rehearing was thereafter denied on the following date: N/A and a copy of the order denying rehearing appears at Appendix NA.

☐ 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. NA NA.

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Due Process Clauses of the 14th and 5th Amendments

Confrontation Clause of The Sixth Amendment

Electronic Filing Manager System Rules

Hash Number = Digital Signature

Statement of The Case

On January 23, 2023 in the 8th Judicial District of Delta County Petitioner was on trial by jury for the offense of Possession of Controlled Substance, Namely Methamphetamine. The State received a D.P.G. Crime Lab Certificate of Analysis on Dec. 30, 2022. Then on January 3, 2023 The Certificate of Analysis was submitted to the Courts (via) Electronic filing. By the standard of Law Petitioner Counsel timely filed a written Objection to the Certificate of Analysis on January 13, 2023 with the Courts (via) Electronic filing Manager. Petitioner appeared in trial and State entered the Certificate of Analysis into trial as Exhibits Number #3 Without the use of the Expert who performed the test but decided to rely on the testimony of local Deputy Alex Suarez of Delta County. Petitioner Counsel timely written Objection was sent to Court Clerk using the Courts Electronic filing Manager on January 13, 2023 according to Counsel Certificate of Service not by the file stamped date Court Clerk used January 13, 2023. Thus denying Petitioner Due Process.

Trial ended with Petitioner being found Guilty by Jury and sentenced to 99 years. A notice for Appeal was timely filed and accepted and Petitioner received Appellant Counsel Frank R. Hughes III who never talk to Petitioner but through U.S. mail then filed a Anders Brief claiming Petitioner had no Appealable issues. The Court of Appeals granted the Brief without truly looking at the facts of the case or Petitioner's Supplemental Brief. The Petition For Discretionary Review was (Refused) without written Order.

Questions Presented

Did the Court of appeals error by allowing Appeal counsel to file an Anders Brief when there was an obvious Preserved appealable issue.

Argument

Appeal counsel erroneously filed an Anders Brief claiming that Petitioners appeal was frivolous and without merit. Appeal counsel "wronged" Petitioner due to trial counsel having filed a timely objection to the certificate of analysis which Preserved issue for appeal. Thus Appeal counsels brief was not in compliance with the dictates of Anders v. California 386 US 738 or Currie v. State 516 S.W. 2d. 683 (Tex. Cr. App. 1974), which makes this ineffective assistance of counsel. see Hish v. State 573 S.W. 2d. 807, 813 (Tex. Crim. App. 1978) The Court erred by allowing Appeal counsel the right to file this Anders since Petitioner has an appealable issue Preserved.

Questions Presented

Trial Counsel's written objection to the Certificate of Analysis was timely filed thus which preserved this issue for appellate review. Was Court of Appeals Ruling unjust?

Argument

The Court of Appeals erroneously allowed Appeal Counsel the right to file an Andres Brief, claiming that Petitioner had no appealable errors and that Petitioner Brief was wholly frivolous. (Sixth Court of Appeals Memorandum Opinion)

The Court of Appeals has misconstrued a statute, rule, and regulation and their decision has departed so far from the accepted and usual course of judicial proceedings, as to call for the exercise of the U.S. Supreme Court Power of Supervision. This decision of the Courts conflicts with its on Circuit and other Circuits Courts as to what constitutes as an appealable issue.

The Court of Appeals failed to address Petitioner's claim in his Pro-se Brief, that trial counsel Platt filed a timely motion to object to the certificate of analysis which preserved this issue for review. (Appellant's Pro-se Brief p. 3-8), and this failure gives Petitioner a valid reason for this Writ of Certiorari. Petitioner's Pro-se argument on direct appeal is that his trial counsel Mr. Platt filed a timely motion to object to the certificate of analysis, which automatically preserves the issue for appeal. According to Tex. R. App. Rule 33.1(a), "to preserve error on appeal, the appellant must show a timely request or objection in the trial court." In this instant case, Petitioner's counsel made a timely written objection to the Certificate of analysis. (C.R. Objection to Certificate of Analysis, pg. 92-93, through electronic filing manager on January 13, 2023, to the District Attorney's Office in accordance to Tex. Code of Crim. Pro. art. 38.41.

When there is a timely objection to the use of documents, such as a timely filed certificate of analysis to establish the results of a Laboratory Analysis of physical evidence . . . it is inadmissible and a witness must be Presented at trial. *Arline v. State* 721 S.W. 2d. 348, 351 (Tex.Crim.App. 1986)

Petitioners timely filed Crawford Objection alerted the trial court to the Potential Confrontation Clause violation within a timely fashion, and sufficiently Preserved this issue for appellate review. Thus, the Court of Appeals erroneously allowed Appeal Counsel to file an Anders Brief when there is an obviously clear error's for review.

Counsel Flatt filed her first written Objection to the certificate of analysis by electronic filing service on January 13, 2023 which was within the ten (10) day time Period Prescribed by Law.

Under Local Rules of District Court in Texas, statewide electronic filing in criminal cases: Pt. 2, rule 2.3 (a), states, Unless a statute, rule or court requires that a document be filed by a certain time of day a document is considered timely filed if it is electronically filed at any time before midnight, (in the court's time zone), on the day of the filing deadline. An electronically filed document is deemed filed when transmitted to the Filing Party's electronic filing service provider. See also rule 3.2 electronic service complete and rule 3.3 Proof of service and Tex. Jurisprudence 4.B.1, section 44, Process, notice, subpoenas. The Texas Supreme Court has recognized, an attorney's certificate of service as Prima facie evidence of service, and creates a rebuttable presumption that service was made. (Gallett v. Jolly 2022 Tex App. Lexis 8860 #18-19)

In the Sixth Court of Appeals own decision, in *Hamilton v. State* 2008 Tex. App. Lexis 5226 *3-4 it states, "Rule 21(a) of the Tex. R. Civ. Pro. provide that a certification by an attorney of record showing service of a notice shall be prima facie evidence of the fact of service . . . A Certificate of service creates a presumption that the requisite notice was served, and the absence of evidence to the contrary, has the force of Law. "Cliff v. Huggins 724 S.W.2d 773. Trial counsel correctly and in a timely fashion filed Petitioners written objection to a certificate of analysis within the ten (10) day filing period. Counsel's certificate of service, "certifies that on January 13, 2023, a true and correct copy of the above foregoing document was served on the District Attorneys office, Delta County by electronic service through the electronic filing manner (Objection to Certificates of Analysis Pg. 93)

According to Tex. Code of Crim. Pro. art. 38.41 section 4.

"Not later than the 20th day before the trial begins in a Proceeding in which a certificate of analysis under this article is to be introduced, the certificate must be filed with the clerk of the court and a copy must be provided ... to the opposing Party. The certificate is not admissible under section 1 if, not later than the 10th day before the trial begins, the opposing Party files a written objection to the use of the certificate with the clerk."

As shown in Petitioner's Pro-se brief, trial counsel filed her first written objection by electronic filing service on January 13, 2023 which being on the 10th day before trial was to begin. "For some reason unknown to Petitioner." On January 18, 2023 counsel filed a second Objection to the Certificate of Analysis.

using the same electronic filing service only to receive another late filing date per clerk. The trial court did not acknowledge neither even when the first was to make filed. see Williams v. State 585 S.W. 3d. 478. 483 (Tex. Crim. App. 2019), Daniels v. State 2017 Tex. App. Lewis 856 *3

The Court of Appeals wrong Petitioners when they denied the official file date Counsel filed on January 13, 2023 and opted to use January 13, 2023 the clerk's file stamped Date, but according to Estes v. McDonald 674 S.W. 3d. 420. 433 (Tex. App. 2023), the courts decided, "that an instrument is deemed filed in law at the time it is submitted to the clerk regardless of whether the file mark gives some other date of filing. It is not upon when the clerk open the filed document, but when service was made because

a document is deemed filed the moment counsel hit send using the courts on electronic filing manager and document is successfully submitted to an electronic filing service Provider," as is in this instant case on January 13, 2023 and was not technically filed until January 18, 2023 see Hall v. U.A. Lewis 639 S.W. 3d. 197, 207-208 (Tex. App. 2021)

Counsel Platt Filed for Election of Punishment on January 13, 2023 the same day she filed Objection to the Certificate of Analysis and it was successfully submitted using the electronic filing service Provider and filed stamped January 13, 2023. see Exhibit # Number 5

Trial Counsel properly submitted her timely written Objection by electronic filing service within the guidelines of Law 10 day filing Period, thus making the certificate of analysis totally inadmissible according to Law, and reserving

this issue for appeal. The court of Appeals failure to address Petitioners claim was erroneous and may be raised in this writ of Certiorari. see *Armstrong v. State* 845 S.W. 2d. 909, 910 (Tex. Crim. App. 1993)

Under Texas Jurisprudence Section 17 it states, as a prerequisite to presenting a complaint for appellate review, the record must show that the complaint was made to the trial court by a timely request, objection, or motion." The court of appeals erred when it decided to ignore and disregard Texas Jurisprudence established statutes, rules, and laws and trampled Petitioners right to a fair and impartial appeal.

Petitioner made a true and proper showing in his Pro-se brief that trial Counsel reserved his right for Appeal by filing a timely Objection On January 13, 2023 by using the courts electronic filing service Provider system.

Admission at a drug trial, of affidavits of state Laboratory who do not testify at trial held to violate accused's right under Federal Constitution's Sixth Amendment to Confront witnesses against him. because Affidavits were testimonial. see *Melendez-Diaz v. Massachusetts* 557 U.S. 305. In *Crawford v. Washington*, the United States Supreme Court held that the Sixth Amendment guarantees a defendant's right to confront those bearing testimony against him. A witness testimony against a defendant is thus inadmissible unless the witness appears at trial or, if the witness is unavailable, the defendant had a prior opportunity for cross-examination. Also while the hard-copy mailbox rule has a ten-day cap. The e-filing rule has no such cap, as the electronic document is deemed filed "immediately upon transmission" unless the date of transmission is weekend or holiday, or the document requires an order to authorize its filing. Tex. R. Civ. P. 5. 216(f) (3) see *Cummings* 629 S.W. 3d at 300.

REASONS FOR GRANTING THE PETITION

For the foregoing reason, the Appellant Prays that Petition will afford him Due Course of Law and that all the Facts of the Case will serve him with relief as may be Provided by the Law and the Constitution Of The United States Of America with the rules of Law. Because The Court of Appeals denied Petitioner The right to an Appeal, as an issue that was an guarantee due to the Law; The Constitution of The United States. The Court of Appeals violated Petitioner's Due Process when his Counsel filed a timely Objection to the Certificate of Analysis Preserving Petitioner's Right to Appeal Under the 14th Amendment's Also the Supreme Court has incorporated the First, Fourth, Sixth and Ninth Amendments into the Fourteenth Amendment's Due Process Clause

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

A handwritten signature, appearing to read "Mr. Charles", is written over a horizontal line.

Date: 06-17-24