

24-6153

No. _____

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

Donald Ray Malena — PETITIONER
(Your Name) *Pro Se*

VS.

Betty Lumphin, Dir. TDCJ — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals, Fifth Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Donald Ray Malena
(Your Name)

2101 FM 369 N
(Address)

Iowa Park, Texas 76367
(City, State, Zip Code)

N/A
(Phone Number)

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Donald Red Watson

Reppel, Franklin, D. S. IDG

National State Court of Appeals, Fifth Circuit

QUESTION(S) PRESENTED

1) Evidence Obtained and Submitted in Violation

2) Ineffective Assistance of Counsel

LIST OF PARTIES

N/A

☒ 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

N/A

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APPENDIX A- Criminal Court of Appeals of Texas P.O. Box 12308, Capitol station Austin, Texas 78711	Adopted the Independent findings of the trial Court, March 23, 2023 without written order
APPENDIX B Tarrant County Criminal District Court No. 2 401 W. Belknap St, Fort Worth, Texas 76102	Aug. 22, 2022
APPENDIX C No Discretion Review	
APPENDIX D- NO Rehearing	
APPENDIX E- United States Court of Appeals, Fifth Circuit F. Edward Hebert Building, 600 S. Maestri Place New Orleans, Louisiana 70130-3408	(COA) denied, March 7, 2024 Cause no. 23-11231
APPENDIX F- United States District Court Northern District of Texas 501 West Tenth St, Room 310 Fort Worth, Texas 76102	Denied application for 28 USC § 2254 Nov. 22, 2023 Cause no. 23-CV-00820

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

See hand written Petition

STATUTES AND RULES

see hand written Petition

OTHER

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 E to the petition and is

☒ reported at Melena V. Lumpkin, 2024 U.S. App. LEXIS 14090; 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☐ is unpublished.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 F to the petition and is

☒ reported at Melena V. Tex. Dept. of Crim. Just. Inst., Div. 2023 US, or, Dist. LEXIS 209132; 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 _____; 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 March 7, 2024.

☒ 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 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).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

- 1) Fourth, Fifth, Sixth, Eighth and 14th amendment of the United States Constitution.
- 2) Texas Constitution Art. 1, Sec. 10
- 3) Texas Code of Criminal Procedure Art. 38.22 Sec. 3(a) 1 & 2
- 4) Texas Code of Criminal Procedure Art. 38.23(a)

STATEMENT OF THE CASE

On March 5, 2022, petitioner was sitting in the car at the shoulder of the Road stranded because the car had ran out of gas and the battery was low.

As I sat there, The Arlington Texas police began to arrive, a officer approached the car, I explained to him why the car was parked there. He asked for the keys and for me to step out. After that, it was all the mis-conduct of overreaching by the officers which, can be seen in the videos produced on March 5, 2022.

The end Results, petitioner was illegally arrested for DWI, see petition for more details

REASONS FOR GRANTING THE PETITION

The Reasons for granting the petition, will by the
Scrutiny of the evidence and process of the Criminal
proceedings, will demonstrate that petitioner's Constitutional
Rights have been denied and from which, has placed him
in an illegal confinement that, he is seeking Relief

Petitioner need to, pursuant to Supreme Court Rule
10(c) petition to this Court for a Resolution to his situation

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Ronald Ray Malena

Date: Sept. 12th, 2024