No. 25-5238

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

FILED
JUL 29 2025
OFFICE OF THE CLERK
SUPREME COURT, U.S.

EXTRAORDINARY WRIT

In Re DENNIS GRIFFITH — PETITIONER
(Your Name)

ON PETITION FOR A WRIT OF HABEAS CORPUS

EXTRAORDINARY WRIT

PETITION FOR WRIT OF HABEAS CORPUS

DENNIS GRIFFITH
(Your Name)

TERRELL UNIT 1300 FM 655
(Address)

ROSHARON TEXAS 77583
(City, State, Zip Code)

NA
(Phone Number)

QUESTION(S) PRESENTED

(1) Does a invalid waiver of counsel hearing and no access to the courts, along with other pretrial violations of constitutional rights [ie] compulsory process, right to an attorney and the right to organize and present a defense make the entire trial fundamentally unfair?

(2) Does a bias/prejudice judge abuse his discretion when he purposely ignores the petitioner's pleas for access to the minimum tools that a indigent pro se defendant needs and has a constitutional right to; [ie.] denied access to any legal material, legal advisor/organizations, [redacted] free phone access and access to the court make the entire trial fundamentall unfair?

(3) Does a miscarriage of justice occur when a indigent pro se defendant is denied any oppertunity to prepare and organize his defense, denying him his 5th, 6th and 14th amendment rights to due process of the law, equal protection of the law and a fair trial?

(4) Was court appionted Direct Appeals Attorney ineffective for ignoring all the issues presented above, denying petitioner fair process and the [redacted] oppertunity to comply with [redacted] State procedures to obtain adjudication on the merits of his claims and citied authorities?

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: Texas Department of Criminal Justice - CID - Bobby Lumpkin Agency No. 696, P.O. Box 99 Huntsville, Tx. 77342 209 W. 14th St., Ste 500, P.O. Box 13084, Austin, Tx 78711

RELATED CASES

1. 18th Dist. Court - Johnson County Case F44109 - May 27, 2011

2. Court of Criminal App. - Sept. 18, 2013 - Inre Griffith, 2013 Tex. Crim. App. LEXIS 1448 PDR Refused - PDR No. 0585-13

3. COA's Waco - April ~~8,~~ 15, ~~2015~~ 2013 - Ex parte Griffith v. ~~Davis,~~ State, ~~2016~~ 2013 ~~U.S. Dist. LEXIS~~ Tex. App. LEXIS 5200

4. Court of Crim. App. - April 1, 2015 - Expante Griffith, No. 82,719-01 denied w/o Written Order

5. U.S. Dist. Court N.D. Texas Div. - Oct 26, 2016 - Griffith v Davis, 2016 U.S. Dist. LEXIS 184309

6. U.S. Dist. Court N.D. Tex. Div. - Feb 17, 2017 - Griffith v Davis 2017 U.S. Dist. LEXIS 22900

7. Griffith v Davis U.S. App. Lexis 28485 (5th Cir) denied Dec. 6 2017

8. U.S. Supreme Court - Oct 1, 2018 Griffith v. Davis, 2018 U.S. LEXIS 5398 (not selected)

9. Court of Crim. App. Tex. WR-82,719-02 4/17/2024 (Tr. Ct. No. F44109-B) Dismissed w/o written order.

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CASES TABLE OF AUTHORITIES CITED CONTINUED PAGE NUMBER

IN THE

SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF HABEAS CORPUS

Petitioner respectfully prays that a writ of habeas corpus issue.

OPINIONS BELOW

[ ] For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix G to the petition and is

[X] reported at Griffith v Davis, 2017 U.S. App. LEXIS 28485; 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 H to the petition and is

[X] reported at Griffith v Davis, 2017 U.S. Dist. LEXIS 22900; 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 I to the petition and is

[ ] reported at CCA No. WR-82,719-01, Trial Court No. F44109 A; or,
[ ] has been designated for publication but is not yet reported; or,
[X] is unpublished.

The opinion of the Court of Criminal Appeals Of Texas court appears at Appendix J to the petition and is

[ ] reported at CCA No. WR-82,719-01; or,
[ ] has been designated for publication but is not yet reported; or,
[X] is unpublished.

Don't NEED

IN THE

SUPREME COURT OF THE UNITED STATES

JURISDICTION

PETITION FOR WRIT OF HABEAS CORPUS

[ ] For cases from **federal courts:**

The date on which the United States Court of Appeals decided my case was Dec. 6th 2017.

[ ] 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: Dec 6th 2017, and a copy of the order denying rehearing appears at Appendix K.

[ ] 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 4-1-2015. A copy of that decision appears at Appendix L.

[ ] 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).

Petitioner cites this Court's jurisdiction, and files this petition for extraordinary writ of habeas corpus under the All Writs Act 28 U.S.C.S. § 1651(a). "The Supreme Court and all courts establish by Act of Congress may issue all writs neccessory or appropriate in aid of thier respective jurisdiction and agreeable to the usuages and principle of law"

The writ will be in aid of the Courts appellate jurisdiction as the Texas Court of Criminal appeals (CCA) denied Petitioner's application for post-conviction habeas corpus relief from a final felony conviction, without written order, Petitioner, who went to trial as a pro se defendant, claims he was denied access to the courts to prepare for his trial by the trial court and county jail. Petitioner was denied effective assistance of counsel, all which led to a fundamental miscarriage of justice. CCA futher denied Petitioner's request for a written order or opinion. The CCA has a staff clerk review all Tex. Code Crim. Proc. art. 1107 habeas applications and are assigned a judge for review, voting in absentia for the other four judges of the court, making his sole opinion theirs. "The instant habeas application is representative of hundreds, and possibly thousands, of procedurally simular applications that are being disposed of as if they have been considered by a quorum of this court, but in actuality seen and considered by only a single judge of this Court." Ex parte Dawson, 509 S.W.3d 294, 297 (Tex. Crim. App. 2016)

without a written order, or opinion from CCA. Petitioner has no answer of law applied to the merits of his habeas application. These exceptional circumstances, along with pre trial constitutional deprivation, warrent the exercise of the Court's discreationary powers and relief cannot be obtained in any other form from any other court due to:

The Court of Criminal Appeals of Texas refused to address any of the Structural errors in Petitioner's Grounds, raised in his habeas corpus for post-conviction relief provided by the Tex. Code Crim. Proc. art. 1107, upon the merits and/or U.S. Constitutional violations that led to a fundamental miscarriage of justice, that held Petitioner illegally confined for almost 16 years.

The Federal District Court, after Petitioner filed his 28 USCS 2254 filing, along with his county jail, inmate request forms (I:60), stated "these serious constitutional violations were not new and convincing evidence," even though it was the first time the I-60's were available to submit to the Court. Petitioner's 2254 application was denied with prejudice, per AEPDA

The Fifth Circuit stated "they could see no constitutional violations", even though the submitted I:60's from the County jail clearly, show, Petitioner, pro se pretrial defendant, was denied access to legal advisor, access to expert witnesses, already appionted investigater, any phone access for indigent defendant to contact his witnesses or investigater, access to legal research material's, which left Petitioner denied compulsory process and due process, equal protection of the law, nor any means to prepare a defense for trial.

Petioner now comes before this Honorable Court, as his last oppertunity, Petitioner was denied a fair trial and effective assistance of counsel, due to many pre-trial U.S. Constitutional violations, and Petitioner has no where else to go. A subsequent writ in the Texas Court of Criminal Appeals was dismissed without written Order on procedural grounds The Federal District Court is going to dismiss any subsequent writ for procedural grounds too, cause first writ was denied with prejudice and time barred and State is refusing to rule on the merits of petitioners claim. Petitioner has no other court to turn to, and is being held illegally and was deprived his U.S. Constitutional rights to a fair trial and the State Court will not even rule on his claim.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

FIFTH AMENDMENT - Due Process and Equal Protection of the law

SIXTH AMENDMENT - Due Process, compulsory process, right to an attorney, right to an attorney, right to self-representation, right to have a defense and a fair trial

FOURTEENTH AMENDMENT - Due process, equal protection of the law and a fair trial

28 USCS 2241(c)(3) - He is in custody in violation of the Constitution or laws or treaties of the United States

28 USCS 2242: Application for a writ of habeas corpus shall be in writing signed and verified by the person for whose relief it is intended....

It shall allege the facts concerning the applicant's commitment or detention, the name of the person who has custody over and by virtue of what claim or authority, if known.

It may be amended or supplemented as provided in the rules of procedure applicable to civil actions.

If addressed to the Supreme Court, a justice thereof or a circuit judge it shall state the reasons for not making application to the district court of the district in which applicant is held.

S.Ct Rule 20.4(A) - has complied with requements of 28 USC 2241 + 2242

S.Ct Rule 20.1 - All Courts have denied to look at the fact that the Petitioner was deprived his Federal Constitutional Rights to a fair trial. The last Court being the Texas Court of Criminal dimissing a subsequent writ.

STATEMENT OF THE CASE
+ RULE 20.4 (A) STATEMENT

Petitioner was arrested and then convicted by a jury in the 18th Judicial Court in Johnson Co. Tx. on 5-27-11 on three Counts of Sexual assault of a child under the age of 14, a 13 year old girl. Petitioner pled innocent. DNA is what allegdly connected the Petitioner to this alleged crime after 10 years. The State presented its case to jury and petitioner was found guilty on all counts.

But extraordinary circumstances took place pre-trial that caused the entire trial to be no more than a farce, making entire trial fundamentally unfair, denying the petitioner his substantial rights to a fair trial due to pretrial structural errors which denied Petitioner due process of the law.

Petitioner was given a invalid waiver of counsel hearing, denied an attorney, denied compulsory process, denied a opportunity to prepare his defense, denied access to the minimum tools a indigent pro-se defendant needed and had a right to; [ie] free phone access, access to the courts, access to legal advisor, access to any legal material and/or law library, leaving no means for Petitioner to prepare for trial

Petitioner was found guilty and given (3) 99 years sentences stacked, a death sentence from a verdict that 'no' jurist of reason should have any faith in.

The Judge was bias/prejudice against petitioner and this is supported by the record, case law and exhibits (all presented in a subsequent writ to convicting court, filed Nov. 15-2023).

Petitioner pionts out that prosectors and stand-by Counsel were both present anytime Petitioner was able to get to court, and the record shows a indigent pro-se defendant facing a bias/prejudice judge. The State prosecutor and stand-by counsel were fully aware that this trial was going forward with a indigent pro-se defendant having no ways or means to prepare a defense. The circumstances surrounding this case are not only extraordinary, but a blemish upon the justice system.

Petitioner was given a court appionted direct appeals attorney, who filed a direct appeal in the COA of Texas, Tenth District, Waco Tx. April 25, 2013. Opinion delivered; April April 25, 2013, Griffith v State, 2013 Tex. App. Lexis 5200.

The guilty verdict was affirmed which should not surprise anyone considering the the appionted appeals attorney only argued the defendant should not have been allowed to represent himself and supported his arguement with no case law and ignored all the pretrial constitutional violation, making him ineffective as a direct appeals attorney.

Then a PDR was filed (PD-0585-13) and was refused; Sept 18-2013

Petitioner then filed a State Habeas Corpus relief under Art. 1107 with a evidentiary hearing requested. No evidentiary hearing was granted and on 4-1-2013 the TCCA denied the petition without written order. (Ex parte Griffith, No. 82-719-01) The State prosecutor stated in the State's answer that "if Petioner can prove what he is saying is true, he deserves relief. This is the same person who stood beside petitioner while petitioner pleaded with the judge for access to a free phone, access to legal materials and ask for Continuance based on being unprepared due to the lack of the minimum tools a indigent pro-se defendant needed and had a right to. The Judge, three prosecutor and stand-by counsel were all aware that a unfair trial was going forward. The TCCA "denied without written order".

Petitioner then filed in the U.S. District Court for the Northern District of Texas, Dallas Division No. 3:-15-CV-1282-N. The Federal District Courts recommendation was the petition for Writ of habeas corpus be "dismissed with prejudice" as time barred by the one year limitation period (see USC 2244 (d) on 10-28-2011 in accordance to the AEDPA. Petitioner filed for a COA with the 5th Cir Tex. Griffith v Davis 2017 U.S. App Lexis 28485, 2017 WL 11644727 and was denied Dec. 6, 2017. The 5th Cir stated they could see no constitutional violations. The 5th Cir. and the Federal District had numerous I-60 request to jail officials showing a indigent pro-se defendant seeking access to a free phone, access to legal materials/legal advisor/organizations/access to the courts as well as Expert Witnesses, investigater and other witnesses. When presented to the Federal District Court they stated these I-60's were not new and convincing evidence. These I-60 request clearly show a indigent pro-se defendant being denied access to the minimum tools a indigent pro-se defendant needed to prepare and organize his defense. (See: I-60's at Exhibit C)

And even if petitioner did a poor job argueing his grounds due to his lack of understanding of appeals process, and the fact petitioner hired the AIG Law group out of Houston, who did nothing and vanished with petitioner's money and transcripts. Petitioner then hired a Certified Paralegal, David Bolton of Texas Writ Works out of Houston who assisted with PDR, 1107, 2254 and the COA with the 5th Cir, and is responsible for breaking the Mailbox rule and filing 2254 late, and would not return transcripts. (See Exhibit M)

On Nov 15, 2023 Petitioner filed a subsequent writ No. WR-[redacted] 82,719-02 with the convicting Court. The TCCA ordered the convicting court "twice" to do finding of facts and conclusion of law and both orders were ignored. The TCCA "dismissed without Written order" and denied request for rehearing according to Tex. Code of Proc. art. 11.07 sec 4(a)-(c). Petitioner now challenges the TCCA decision.

Petitioner showed the State court [redacted] that he was denied access to the courts, denied the compulsory process, denied an attorney, denied the minimum tools a indigent pro-se defendant needed and had a right to [ie] access to phone, legal material, legal advisor/legal organization and to witnesses. The jail I-60s (exhibit C) that all the State + Federal courts had seen support this arguement. This guilty verdict was obtained illegally, putting an innocent man in prison without a fair trial. The TCCA along with the other courts ignored these structural errors that denied Petitioner his 5th, 6th and 14th amendment rights to a fair trial. Petitioner presents a petition for extraordinary writ of habeas corpus in this honorable court because going back to federal district court with a subsequent writ with no new + convincing evidence, the AEDPA is going to prevent any relief since a prior writ was denied with prejudice and time barred. Niether State or Federal Courts are going to look at a subsequent writ.

Petitioner believes he's qualified for relief in this honorable Court according to Rule 20.1, 20.4(A) (28 USC §§ 2241 + 2242.

Petitioner has shown exceptional circumstances to warrent this honorable Courts discretionary powers and that adequate relief cannot be obtain in any court. (State or Federal) Petitioner is innocent and never got the opportunity to prove his innocents in a fair trial.

INVALID WAIVER OF COUNSEL + DENIED ACCESS TO THE COURTS (QUESTION ONE)

Petitioner's Waiver of Counsel hearing was invalid, for petitioner was misled as to the basic tools he would have access to after waiver of counsel signing. Petitioner will show it was his true understanding from the Court + Stanby counsel, that before signing waiver of counsel, petitioner would have access to the law library at jail and/or legal research materials, (See: RR Vol. 7 pg. 4 at 11-22; pg. 9 at 17-22 + Exhibit A), along with some form of limited free phone access to contact expert, investigater and other witnesses in order to prepare for trial.

Petitioner respectfully request this Honorable Court to review the "totality of the circumstances," to evaluate the validity of the waiver of counsel in this instant case as petitioner will show he did not agree to waiver of counsel intelligently and knowingly. Taking all the circumstances into account, Petitioner prays this Honorable Court will find Petitioner was denied his right to counsel provided in the 6th Amendment as well as being denied access to the courts and other constitutional violation [ie] fair trial, compulsory process, access to phone, due process + equal protection of the law.

In Williams v. State, 252 S.W. 3d 353, 359 (Tex. Crim. App. 2008) "when a defendants waiver is invalid and, as a result the right to appionted trial counsel is violated, a court cannot with any accuracy, predict what would have occured in the absence of the violation. We do not know whether Williams would have accepted the assistance of appionted counsel had she been properly admonished by the trial judge. Moreover in argueing that the outcome of the trial would have have been the same, the state ignores the fact the entire trial from beginning to end is obviously affected by the absence of counsel...." The trial was rendered fundamentally unfair and unreliable because defendant was denied the right to appionted counsel. The application of a harmless error analysis under Tex. R. App. P44.2 was there fore not approprate; prejudice was presumed."; See: Schneckloth v Bustamante, 412 U.S. 218 (1973) Id. at HN17

Stand-by Dick Turner addressed the trial court + petitioner at the start of the waiver of counsel hearing, stating his appiontment sheet showed he was to advise pro-se defendant during trial only. (See: RR. Vol. 7 pg 3 at 14-25; and see exhibit B)

Turner informed Petitioner, (off the record) since Petitioner was indigent that free phone access to contact DNA expert, investigater and other possible witnesses would not be an issue. This was a grave concern to Petitioner and a essential factor decision to procede pro-se. Secondly, Petitioner was concerned about his access to legal materials for research and any question he might have. Again Turner relayed to Petitioner the Court appionted him to "advise at trial" however he would have access to the law library at jail since his attorney had been dismissed. Petitioner had no reason not to trust what Turner (and Judge) had told him at that point. (see: Exhibit A+B; and see RR. Vol 7 pg 3 at 19-25, pg 4 at 11-22; pg 9 at 17-22).

The Judge addressed Petitioner at the waiver of Counsel hearing as follows:

The Court: "Okay Mr. Griffith, as I admonished you yesterday when representing yourself, you know, you may not know what objections to make to evidence. There may be evidence that comes into trial in that otherwise you may open door to evidence that comes into trial in what otherwise would not be admissible" (see R.R. Vol 7 pg 4 at 4-10). Before Petitioner could respond, Turner abruptly responded.

Mr Turner: "Judge I have talked to him about those issues. And I said he probably needs to get into the law library at the jail, if at all possible, and he said he's requested that but they have denied him access to the law library. I said I don't [redacted] think thats up to [redacted] judge; thats up to the Sheriff. He needs to probably request that again since he's had a motion where his other lawyer was dismissed." See: R.R. Vol 7 pg 4 at 11-19) and the Judge agreed. (see: RR Vol. 7 pg 4 at 19-22; and see exhibit A

The Petitioner was denied an opportunity to respond to the Judge's address and Turner's abrupt response was filled with falsity, Stating [he had spoken with Petitioner regaurding the Judge's stated issues.] Turner repeatedly stated he was appionted to advise Petitioner "only during trial" [that Petitioner would need to visit the law library to answer any questions he had.] Turner Further stated that [access to the law library was not up to our Judge.... [redacted] Indicating dismissing his attorney would gain him access to law library.

See: United States V Winters, 2024 U.S. Dist. LEXIS 13756 Id at 3 "A self represented defendant has a constitutional right to represent himself meaning fully."

United States V Farias, 618 F.3d 1049, 1053 (5th Cir 2010) "This means at the minimum that 'time to prepare and some access to materials and witnesses" must be provided; also see Milton V Morris, 767 F.2d 1443, 1446 (9th Cir 1985) (emphasis added) abrogated by Kane V Garcia Espitia 546 U.S. 9, 126 S.Ct. 407, 163 L.Ed 2d 10 (2005) (emphasis added)

Id. at 4 In Milton, the Ninth Circuit found that "a Petitioner for habeas corpus should be granted where the County jail materially impeded a prose defendant's ability to represent himself. 767 F.2d at 1445. The Court denied Milton's request for access to more recent legal materials, but it ordered that Milton be given thirteen telephone calls per week, the right to hire an investigater and a runner to assist in the services of subpoenas. Id at 1445-45....

Considering these actions together; the court found that Milton was isolated from any means to prepare for trial in violation of his 6th and 14th Amendment Rights." (emphasis added)

In Winters Id at 5-6 the legal assistance program available to Mr. [redacted] Winters at the Santa Rita Jail falls more in the zone between no access, held unconstitutional in Milton, and mandatory access to law library, held not necessary in Wilson nor clearly establish in Kane. The LAP Policy requires delivery of requested research materials within 72 hours... Mr Winters has free access to a legal pad, plain paper, a file, folder, and envelopes, as well as two hours of free telephone calls per week" (emphasis added)

Petitioner got **no** access to 'any' legal research materials and 'any' free phone access by the jail in order to contact the courts, witnesses or 'any' legal advisor (see: Exhibit C). Stand-by Counsel Turner would avoid answering petitioners question or concerns and would State he was appionted to assist at trial and petitioner could answer any question or concerns at the law library at jail. (See: RR. Vol. 7 pg 4 at 11-22). The Judge seem to agree with Turner and stated "Mr Griffith, I'm going to send an information to jailer requesting that Sheriff's office make the law library availabe to you where you can 'prepare' for trial." (See: RR Vol. 7 pg 4 at 11-22 and see: Exhibit A + B) The Court should have an order to the Sherriff's office to give Petitioner access to jails law library, access to free phone to contact any legal advisor, witnesses or legal organization in order to prepare for trial instead of having him sit in jail cell with no means or way to prepare for trial

In Milton Id. at 1448 "If he elects to do so by rejecting the services of an attorney to conduct his defense, he cannot be confined to his jail cell simply to look at four walls and appear on the day of trial to defend himself. He 'must' be afforded reasonable access to resources.... The rejection of an attorney to conduct his defense cannot be considered as a waiver of the reasonable access to the resources necessary to defend himself. To do so would reder *Farretta* Meaningless to a confined defendant. "Concurring" The State Court Judge in this case reasonably concluded that in order to adequately prepare his defense, appellant needed to make a certain number of local and long distance calls, and to have access to a runner, investigater and expert witness. The Court 'ordered' various custodial officials to permit appellant access to these resources, but later expresslly found thats it's 'order' was violated. Under these circumstances appellant's due process rights were violated having to address the difficult issue of the excope of the right to prepare a defense" (See: Bounds v Smith 430 U.S. 817, 52 L.Ed 72, 97 S.Ct 1491

(1977); Faretta v California; United States v Wilson. (Emphasis added).

Judge and Mr. Turner's action and statements led Petitioner to believe proceeding pro-se, he would in fact have access to legal research material, and some free phone access. Petitioner was never given [redacted] access to either

The Judge Stated: [Petitioner would be better off having Turner represent him, for all he could do otherwise (as standby counse) was sit behind him at trial and answer question] (See; R.R. Vol 7 pg 4 at 23-25; pg 5 at 1-2)

Petitioner was never question or tested in any manor by the Judge as to what degree of legal knowledge Petitioner held, which at the time was none, nor did Judge discuss anything concerning defenses as in Schneckloth "possible defenses to the charges and circumstances in mitigation thereof, and other facts essential to a broad understanding of the whole matter..."

Judge mostly relied on off the record conversation between Turner and Petitioner to suffice as to any examination of Petitioner's legal knowledge and abilities with no discussion period on possible defenses.

In the instant case, Turner refused to address any of Petitioners questions or concerns pre-trial and repeatly refferred Petitioner to get his answer in the law library. During the waiver of counsel hearing, the Judge did admonish Petitioners as to the disadvantages he would face at trial without Counsel, but failed to question and or test Petitioner's legal knowledge and never discussed defenses. Turner injected himself into the conversation the Judge was having with Petitioner and Stated: he talk to him about those issues" (See; R.R. Vol 7 pg 4 at 11-22)

The Judge Stated: "I just wanted you to have time to talk to Mr Turner here today, and to be sure you understand what is when your representing yourself. (See RR Vol 7 pg 5

at 20-22) The Judge goes on to say: "well in a criminal case you are represented by an attorney or your not" Petitioner response: "Right I did not know that."
The Court: "And if your prose that means your representing yourself. I can appoint a lawyer you know, to sit there in the chair behind you to advise you and answer question that you have, but if your representing yourself, then your representing yourself in trial. Do you want to talked to Mr Turner anymore today?"
The Court: "I just wanted this morning to admonish you again of the risk of representing yourself, and I wanted clear on record that you had talked to Mr. Turner" (See; RR. Vol 7 pg 6 at 2-25; pg 7 at 1-5)

The Judge based Petitioner's knowledge of law and ability to represent himself at trial soley on Turners statement [that he had talked to Petitioner regaurding issues the Judge had raised.]

Any question Petitioner ask of Turner was met with "you can find that in the law library."

See; Johnson V Zerbst, 304 U.S. 458, 58 S.Ct 1019 (1938) "A waiver is ordinarily on intentional relinguishment of a known right or privilege. The determination of whether there has been an intelligent waiver of right to counsel must depend on each case, upon the particular facts and circumstances surrounding that case, including the background, experience and conduct of the accused." Also (see Iowa V Tovar 541, U.S. 77, 88, 124 S.Ct. 1379 (2004) "The information a defendant must possess in order to make an intelligent election, our decision indicate, well depend on a rage of case specific factors including the defendants education or sophistication, the complex or easily grasp nature of the charge and the stage of the proceeding"; also see: Huggins V. State, 674 S.W. 3d 538, 541 (Tex. Crim. App. 2023) "The admonishments require for self-representation depend on the circumstances, including the defendant's education or sophistication and the complexity or simplicity of the charge."

At the time Petitioner address the court he understood the dangers and disadvantages of self-representation and desired to proceed pro-se, he did so with the full understanding and belief he would have reasonable access to the law library, as well as some limited access to a free phone to do research, learn procedures, rule of evidence, and contact witnesses and legal advisor/organizations, as he was ashured he would have as the reporters record shows multiple times. Both Judge and Turner informing Petitioner he would have access proceeding pro-se to the law library to prepare for trial and a telephone, which jail denied Petitioner any access to either. (See: Exhibit C). So with the understanding and belief he would have access to the law library to prepare for trial and some free phone access, Petitioner signed waiver of counsel.

The Judge Stated:

> The Court: "The Court, for the record, has signed an information to the jailer that the Court 'request' Sheriff's offices make the law library available for the defendant is pro-se (See: RR Vol. 7 pg 9 at 17-22 and see Exhibit A)

The following morning, 4-21-2011, the judge allowed Petitioner and Turner to speak in private. The Judge States on record:

> The Court: "Okay, and Mr Griffith your case is set for jury trial on May 9th-2011 at 8:30 am. You need to ready to go to trial at that time. And we brought you up this morning where Mr. Turner could talk to you again. But Mr Turner, will you let the Sheriff's office know when he's ready to go back to jail."
>
> Mr Turner: "[redacted] Judge he's ready to go back now. I do plan on meeting with [redacted] given he's got some additional questions, but I will meet with him next -- probably, the next four or five days."

Petitioner never saw Turner again until Petitioner was finally allowed to review States evidence, (no physical evidence was allowed) and when Petitioner was able to get the Judge to bring him to Court for a motion hearing. During this brief off the record conversation, Petitioner asked Turner to represent him. Turner refused, [redacted] "Stating he was not interested in representing Petitioner and if Petitioner wanted a lawyer, he would have to hire one (mentioned to Judge in letter) (see: CR Vol 1 pg 0123-0124) Petitioner understood that to mean since he signed waiver he no longer had a right to counsel and and therefore he being indigent, had no other choice but to proceed pro-se. Petitioner was never advised of his right to recind the waiver of counsel and request counsel be appointed and later in another letter tried to give up his pro-se Status. (See: CR, Vol. 1 pg 0127-0128)

After waiver of counsel hearing Petitioner made continuois request to jail for access to the law library, a free phone to perform research + contact legal advisor, investigater / DNA expert and other witnesses, all refused. (See Exhibit C) Petitioner wrote two letters to the judge. In said letters Petitioner requested a hearing on motions he filed, for he had no other means of contacting the Court. In second letter Petitioner stated his desire to recind his waiver of counsel (See CR Vol 1 0127 - 0128) At the end of waiver of counsel hearing the Judge Stated:

The Court: "Well Mr Griffith you'll need to work with your attorney and be ready when when your case is set for trial on Monday, May 9th, 2011 at 8:50 am (See: RR Vol 8 pg 4 at 21-23) Petitioner was confused and had no way to contact anyone.

See: Faretta v California, 95 S.Ct 2525 (1975) "A decision to represent oneself can be voluntary, knowingly, and intelligently made based on true and correct information given to him."

Petitioner was not given any information he requested, nor any means to obtain any needed information, or answers to questions he held to prepare for trial and was given mis information about law library access and phone access, denying him a fair trial.

The record and two letters sent to the judge (See: letters CR Vol 1-0123-0124 + 0127-0128) Clearly show the judge use words from Turner, stating Petitioner knew what he was doing and that he answered all of Petitioner's question, when in fact Turner's answer to all of Petitioners question with "you can look that up in the law library." (See: RR Vol. 7 pg 4 at 11-18)

It further shows Petitioner relized he would not have any pre-trial assistance from Turner and have to rely on his own research in the law library (See: RR Vol 7 pg 4 at 11-22, pg 9 at 17-22) to figure out how to contact investigater, DNA expert and other withesses, This assurance is what concernal Petitioner going forward prose. Petitioner relized he was not going to be given access nothing. Petitioner in the letters to judge requested counsel be appionted and/or wanted to recind his waiver of counsel. (See: CR Vol 1 pg 0123-0124; 0127-0128) Petitioner had the right to recind his waiver of counsel and request the court appiont counsel at any time. The judge responded to request to hear motion in letter but nothing else;

See: Calamance v State, 462 S.W. 3d 587, 592 (Tex. App - East-land (2015) "Tex code Crim proc. art. 1051(h) provides that a defendant may with draw a waiver of right to counsel at any time but is not entitled to repeat a proceeding previously held or waived soley on the grounds of the subsequent appiontment or retention of cousel." Tex code Crim Proc art 1051(h) (West supp. 2014). Even in the absence of art 1051(h), courts have held that a defendant could recind a waiver of his right to counsel or with-draw an assertion of his right to self-representation"; also see Funderburg v State, 717 S.W. 2d 637, 642 (Tex. Crim. App. 1986; Brown v Wainwright, 665 F.2d. 607, 610 (5th Cir 1982); United States v Coleman, 832 Fed. Appx 876, 880-81 (5th Cir 2010)

Petitioner was denied his Fifth, Sixth and Fourteenth amendment rights.

BIAS/PREJUDICE JUDGE, AND ABUSE OF DISCRETION (QUESTION TWO)

1) Petitioner will show "personal bias" and "prejudice" against him by Judge Niell as well as Stand-by Counsel Dick Turner, prior to and throughout trial causing Petitioner to recieve a fundamentally unfair trial, "Preconcieved opinion: An Opinion formed before the facts are known or disregaurded of the facts." See: Hudgins v State, Ga. 173, 176, 1847 Ga. Lexis 25

The Judge showed his bias and prejudice toward Petitioner, most likely due to the nature of the offenses charged against Petitioner, by not assuring Petitioner had sufficient access to requested materials for research in preparing for trial, nor any access to a free phone to contact investigater, DNA expert, other potential witnesses, for Petitioner was an indigent pre-trial detainee. Furthermore, the judge denied Petitioners second motion for a continuance, knowing Petitioner had gotten no access to the jail law library, or legal research material or assistance from anyone with knowledge of the law, nor access to a free phone to contact investigater, DNA expert as well as other potential witnesses.

See: Burkett v State, 196 S.W. 3d 892, 896 (Tex. App. Texarkana 2006 no pet) "A Judge shall recuse in any proceeding in which the judges impartiality might be questioned. Tex. R. Civ. 18b (2)(a).... The deprivation of a defendant's right to a trial before an impartial judge is a structural defect in the trial mechanism itself; alse see: Arizona v Fulminante, 499 U.S. 279, 309-10, 115 S.Ct 1246 113 L.Ed. 2d. 302 (1991) "Stuctural error is not subject to harmless error analysis" Id; Cain v State, 947 S.W. 2d 262, 264 (Tex. App. 1997) "Therefore even if an apellant Court is convinced that a disqualified judges involvement in a case was harmless, that involvement still requires reversal of the case."

Judge definately showed "Judicial Misconduct" by allowing Petitioner unintelligently, unprepared with all access to legal materials, assistance or free phone denied him by the jail to proceed to trial by denying Petitioner's Motion for Continuance. (see: R.R. Vol 10 pg 4 at 1-25; pg 5 at 1-25; pg 7 at 1-10 and see: exhibit C) and first request for continuance at (see: R.R. Vol. 9 pg 6 at 20-25; pg. 7 at 1-8)

After the jury undoubtedly convicted Petitioner, he was then sentenced by the jury to 99 years confinement for each of the three counts. Judge Neill imposed the sentence and ordered them to run consectively, knowing Petitioner's given age, Petitioner would die in prison.

See: In re Bynum 2024 Tex. LEXIS 1182 "Non legal errors are revied under a willfulness standard. See: Ginsberg, 630 S.W. 3d at 7-9. In judicial misconduct cases 'willful' errors occur when a jude intentially or with gross indifference misuses the power of the judicial offices." See: In re Sharp, 480 S.W. 3d 829, 833 (Tex. Spec. Ct Rev. 2013) (citing In re Davis, 82 S.W. 3d 140, 148 (Tex Spec. Ct. Rev. 2002) "A Judges act intentially when the act is done with the conscious object of causing the result or of acting in the manner defined in the pertinent rule of conduct." Ginsberg, 630 S.W. 3d at 7. "Indifference is gross when it is flagrant, shameful and beyond all measure and allowance" See: Greg V State, 2025 Tex. App. LEXIS 60, at Id 5 "Courts enjoy a presumption of Judicial impartiality." Abdyapparova V. State, 243 S.W. 3d 191, 198 (Tex. App-San Antonio 2007 pet. ref'd) In other words absent a clear showing to the contrary we presume the trial court as a neutral and detached decision maker. Brumit V State, 206 S.W. 3d 639, 645 (Tex. Crim. App. 2006). The Movant's burden is only satisfied when Movant provides facts demostrating the presence of bias or impartiality of such a nature and provides facts demostrating the presence of bias or partiality of such a nature and extent as to deny the Movant due process of the law or a fair trial. Drake V. Walker, 529 S.W. 3d 516, 528 (Tex. App.-Dallas 2017, no pet)"

Furthermore, Petitioner aske the Judge if his "motion to adopt prior motions filed by ~~his prior counsel was allowed and applicable to him moving forward.~~"
his prior counsel was allowed and applicable to him moving forward. (See: RR. Vol 9 pg 6 at 7-17)

The Court: "Anything else we need to take up today Mr Griffith?"
Defendant: "My second motion that I filed the other day on my motion to adopt prior motions..."
The Court: "You want to just make sure that all motions filed by your previous attorney--"
Defendant: "Yes."
The Court: "-- are applicable? Granted."

Petitioner believed the motion was granted. This was essential to Petitioners and his case for they included a DNA expert and investigater, for their findings and testimony at trial. However, Petitioner by way of following, had no means to contact anyone and was therefore denied a DNA expert witness to rebutt the States expert witness, and an investigater that could have attained exculpatory information and subpeoned witnesses to testify for defense at trial, as well as offered expert testimony of his finding, in violation of Petitioner's due process rights, compulsory process, proper defense and denied Petitioner a fair trial.

The Petitioner only filed two (2) Motions for Continuance. The first was granted, the second denied. In granting Petitioners first Motion for Continuance, this gave Petitioner 15 more days to prepare for trial but showed bias and prejudice against Petitioner by ignoring and failing to address the very issues that made continuance needed. Jail was a week or more in answering any request Petitioner sent in requesting access to phone and access to law library. Petitioner needed phone access to contact legal advisor/organization, to contact witnesses, including expert and investigater. Petitioner was indigent and could not afford expensive dayroom phone. The Judge was made aware of all these serious issues and he chose to ignore them, and just stated "May 23rd is your trial date." (See: R.R. Vol. 9 pg 6 at 18-25; pg 7 at 1-9.) The Judge then and there should have done one of the following; 1) order the jail to provide Petitioner adequate access to jail law library and access to a free phone (limited and instruct Stand-by Counsel to answer Petitioner's pre-trial question or concerns and not simply refer him to the law library, of which he was aware Petitioner had no access to; 2) Find Petitioner was not capable of conducting a trial, especially with the complexities of the case and not having the ability to study any reference materials, contact investigater or witnesses and appiont him full counsel other than Dick Turner who related to Petitioner he had no interest in representing him in the case. (see: letter C.R Vol. 1 pg 0123-0125) Not doing so and allowing Petitioner to continue to trial without any opportunity to prepare and no knowledge of law, denied Petitioner a fair trial and showed Judge was bias and prejudice against Petitioner. Petitioner felt and still feels had he been afforded the basic tools to prepare for trial shown in the afore mentioned, along with the compulsory process the out come of the trial would have been different.

See: Milton v. Morris, 1985 U.S. Dist. App. LEXIS 21713 Id. at 1444. "Jail authorities apparently misinterpreted the orders regaurding phone calls and his phone use was in fact severly limited. When this was called to the attention of the trial judge, the trial judge continued the date for and granted the request for an investigater" and was still limited by jail authorities in his use of the telephone, he could not find investigater" Id. at 1445 "The week before his trial, which was scheduled for a Monday, the trial court appionted a runner to assist in the services of subpoends. However, jail authorities prevented Milton from contacting runner to assist in the services of subpoenas. However, jail authorities prevented Milton from contacting the runner on at least one occassion prior to trial. The trial court eventually granted Miltons motion for expert witness, but not until the Friday immediatly proceeding trial. On the day of the trial Milton had not been able to contact any expert witness or to procure an investigater, having no access to current law books, witnesses or an investigater, Milton, on day of trial refused to participate. Not surprisingly he was found guilty...."
"The question thus becomes whether Milton's due process rights were violated, he was tried without having had any meaningful oppertunity to prepare his defense. We hold, in the circumstances of this case, that they were. Despite timely and reasonable request, Milton was isolated from any means to prepare."

when Petitioner raised all the issues he was having, not allowing him to prepare for trial (ie. no access to law library or research material, no free phone access and stand-by counsel refusing to answer any pretrial question) and the judges response was "May 23rd is your trial date." (See: R.R. Vol. 9 pg 6 at 20-25; pg 7 at 1-9) This along with other acts shows the judge was bias and prejudice against Petitioner.

Petitioner sent two letters to Judge Neill, (see: CR, Vol 1 at pg 0123-0124; pg 0127-0188) each addressing concerns he had. Dick Turner was not answering Petitioners questions or concerns and instructing Petitioner to find his answers while doing research in the law library, knowing Petitioner was being denied access, and Turner rejecting Petitioner's request for him to provide full appionted representation (see: CR Vol1 pg 0123-0124) having no access to the law library at the jail, not any free phone access and Petitioner wanted to give up his right to self-representation. (see: CR Vol1 page 0127-0128) The judge gave no response to either letter: However, [P] in the letter stated "I would like to ask for a hearing on my motions I have turned in my request to go to court or to use phone, but just now got a reply. Jail said not thier Job to get me to court or furnish law library. (see: all exhibits C)

Petitioner, after sending letters to the judge the Petitioners was taken to court for a hearing on his two Motions. The judge failed again to address the other issues in the letters, again leaving Petitioner no ways or means to properly prepare a meaningful defense resulting in a unfair trial.

See: United States v Hudson, 2023 U.S. App. Lexis 2759, Id. at opinion "Hudson filed pro-se letters with district court raising concerns about his representation. The Court construed one of a motion for new attorney and summarily denie it. Hudson argues that the district court erred when judge denied motion because it failed to conduct inquiry into his satisfaction with counsel. For reason set forth below we agree and there fore vacate district court's denial of Hudson's motion and remand for further proceeding."

If the Judge, [redacted] read letters and chose not to act on them in any manner in reguards to Structural errors occuring prior to trial would show bias + prejudice against Petitioner. In Petitioners second letter he requested the judge order him to Court so he may file a motion to confer with expert witness, and to let the Court know Petitioner, without the proper tools to prepare a meaningful defense, he no longer felt he could represent himself in the initial case. Again Petitioner request to appear, as well requested a hearing on all motions filed but never heard. (See: both letters at CR Vol1 pg 0123-0124; pg 0127-0128.) The lack of any responce to the letters gravely harmed Petitioner denying him due process, access to the courts, compulsory process, expert witness, and investigater, assuring Petitioner would be found guilty by a jury.

Hearing on Two Motions: (See: RR Vol 10 pg 4 at 1-25; pg 5 at 1-25; pg 6 at 1-25; pg 7 at 1-3.
<...> = Petitioners comments

The Court: "Dennis Griffith, I'm trying to figure out -- lets take up motion to confer with expert witnesses. Explain that to me."
Defendant: "I've had no way to contact them other by mail and I mailed a letter but have got no response. I need to have access to a phone to be able to call them and make arrangement to speak to them"
The Court: "Your Witnesses?"
Defendant: "Yes."
The Court: "And you got witnesses designated as experts. Okay, I'm not opposed to you talking to them what do you want me to do?" <already stated need phone access>
Defendant: "I have no ~~phone~~ access to a phone, I mean, jail has got a phone but its not private and plus it cost an arm and leg to use it."
The Court: "Okay what are you asking me to do?"
Defendant: "Can you get me access to a phone?"
The Court: "You just told me you have access to a phone, its just expensive out there." <Judge knew Petitioner was indigent. Here and throughout the Judge is antagonistic toward Petitioner> <See: Jacquot v Coker, 2022 Tex. App. Lexis 2588 Id at 29. "reversible bias or partiality is shown if the judge's conduct showed a deep seeded favortism or antagonism that would make fair judgement impossible">
Defendant: "And its not private."
The Court: "Again what are you asking me to do?"
Defendant: "I need to get to a phone to call my expert witness."
The Court: "Do you want to use a cell phone? I mean, I'm not following." <Judge knew exactly what Petitioner was requesting. This was not Petitioners first request.>
Defendant: "I don't know if the jail has a phone I can use
The Court: "I don't know either." <doubtful, I'm sure judge knew available resources for pro-se defendants, or should've known.>
Defendant: "I've put in numerous request and they ignore me."
The Court: "Your next motion, is motion for continuance." <Phone issue not resolved.>
Defendant: "Yes."
The Court: "First of all, I'm going to grant your motion to confer with expert witnesses. You have every right to do that." <But no ways or means to do so.>

The Judge continuosly parsed words and alluded to not understand what Petitioner was requesting and failed to assure Petitioner (pro-se) had access to the basic tools to prepare a meaningful defense. This denied Petitioner his due process, compulsory process rights, equal protection of the laws and a fair trial, Judge wanted to hear more about the Motion for Continuance. (See: RR. Vol 10 pg 5 at 24-25; pg 6 at 1-29; pg 7 at 1-3

• The Court: "The Motion for Continuance. Tell me about that."
Defendant: "I've not had time to confer with my expert witnesses so I'm not prepared to go to trial at this time." <We just discussed not having phone access to contact witnesses.>
The Court: "Response?"
Mr. Straham: "This would be the third request for continuance from the defense. There's been two prior that have been granted. The State is ready." <1 of the three was by prior counsel before waiver of counsel hearing. See: Heiselbetz V. State 906 S.W. 2d 500, 511 (Tex. Crim. App. 1995). "Where denial of a Continuance has resulted in representation by counsel who was not prepared, we have not heistated to declare an abuse of discretion". Duhamel V. State, 717 S.W. 2d. 80, 83 (Tex. Crim. App 1996) "To find an abuse of discretion in refusing to grant a motion for continuance, there must be a showing, that the defendant was prejudiced by his counsel's inadequate preparation time.> [redacted] <Petitioner had less than 30 days to educate himself in the Code of Criminal Procedure and rules of evidence with no access to any legal materials, or law library at jail and was unable to contact witnesses, exper witnesses or investigater for jail would not provide any access to a free phone and Judge was keenly aware of this, yet he still forced Petitioner to proceed to trial regaurdless, which prejudiced Petitioner leading to a guilty verdict in what was an unjust trial> <See: United States V. Williams, 1977 U.S. Dist. Lexis 6359 Id at 2 "The Court is reluctant to continue the trial. Unfortunately, it has come to pass that criminal cases are routinely continued at least once (and commonly more often) before the defendant goes to trial or enters a guilty plea. Not infrequently, the court is powerless to prevent this delay because counsel claims to be unprepared to proceed, and in that instance, the courts hands are [redacted] to a good degree tied. To force unprepared defense counsel to proceed to trial would be to place defendant at an undue risk that he will be wrongfully found guilty simply because his counsel asserts he did not have adequate preparation time. Failure to grant the continuance because of inadequate time to prepare for trial only creates the possibility of further proceeding, whether by way of habeas corpus petition or other wise if the defendant is found guilty">
The Court: "Anything else Mr. Griffith?"
Defendant: "Other than I just need more time to prepare, your honor."
The Court: The Motion for continuance is denied." - The Motion to confer with Expert witness is granted, Anything else today?" <This shows the judge was aware of the fact Petitioner had no way to contact his witnesses, and no legal material access to prepare for a trial pro se Denied

of Petitioner's Motion For Continuance knowing he was no way prepared for trial shows John E Neill was bias toward Petitioner which denied Petitioner a fair trial.>

Defendant: "Other than I'm not going to get access to a phone, you can't help me out that way at all?"

The Court: "I'll put in a call out to the jail. But understand, I don't control what goes on at the jail. Thats not my domain. I can't control what goes on in this courtroom, but I can't control what goes on in the jail. I will put a call into jail to make sure you have access to a phone."

Defendant: "I appreciate it."

The Court: "I cannot gaurantee thats its going to be a free phone. I'll just give you access -- I will make sure they give you access to a phone. Fair enough." <Judge knew there was access to a "for pay" phone in dayroom, he further knew Petitioner was indigent and required a free phone use. Again show bias.>

The Court: "Anything else that you can anticipate us needing to take care of before your trial?"

Defendant: "The law library, I would like to have access to the law library, if at all possible and I would like to get back down here every day this week to look at the evidence again to go back through it. The States evidence."

Mr Strayhan: "Judge, I've given him about 12 hours with my evidence. At some point I'm going to have to use my own file to get ready for trial." <The State had just previously announced "ready for trial". Mr Straghan's statement to the court petitioner had already been given 12 hrs with State's evidence was false. Petitioner would be told he had 1/2 day to review the evidence, then be taken to holding cell only to get 30 minutes to two hours to review the evidence. Petitioner had a total of actual combined review time of about 6 hours. Furthermore, Petitioner was allowed to take paper into court to review evidence, but jailer allowed him 'not' to pen just paper.

The Court: "Okay."

Mr Strayham: "His prior attorney had full access to it which included copies which he's already admitted on record that he's gotten copies of. Everything his prior attorney wanted to copy at that time he looked at on two different days. One for eight hours, one four hours. I've got to prepare for trial myself." <First day Petitioner had only 4 hours not 8. Afterwards only 30 min to an hour for a combined time of about 6 hours.> <What petitioner prior attorney wanted to copy has no bearing on what Petitioner wanted to review as trial strategies were different. Mr. Straghan had 18 months to review State's evidence (his evidence) while only providing 6 hours to Petitioner.>

The Court: "I'll tell you what, one more day. How about a half a day Thursday? What would be a good day for the DA? If you got something else?"

Mr Strayham: "Thursday would probably be a good day." <Petitioner got a half day Friday that turned out to be just over one hour by the time Petitioner was brought out of holding Cell.>

Petitioner went to trial without his witnesses, expert witness, investigater, insufficient review of discovery, including victoms video testimony, no access to any legal materials and no phone access leaving petitioner with no ways or means to prepare a defense leading to a unfair trial.

See: Ake V. Oklahoma, 105 S.Ct 1087, 1093 (1985) "This court has long recognized that when a State brings its judicial power to bear on an indigent defendant in a criminal proceeding it must take steps to assure that the defendant has a fair opportunity to present his defense. The elementary principle, is grounded in a significant part of the Fourteenth Amendment's due process gaurantee of fundamental fairness, derives from the belief that justice cannot be equal where, simply as a result of his poverty, a defendant is denied the opportunity to participate meaningfully in a judicial proceeding in which his liberty is at stake.... We regnize long ago that mere access to the court house doors does not by itself assure a proper functioning of the adversary process and that a criminal trial is fundamentally unfair if the State proceeds against an indigent defendant without making certain that he has access to the raw materials intregal to the building of an effective defense" (emphasis added)

In Milton v. Morris 767 F.2d 1445, 1446 (9th Cir 1985) The Court States "Faretta holds that the rights gauranteed by the Sixth Amendment are personal to the accused. The right to notice, confrontation, and the compulsory process mean at a minimum, that time to prepare and some access to materials and witnesses are fundamental to a meaningful right of representation. Faretta, 422 U.S. at 818; Also United States v Portillo 633 F.2d 1313, 1324-25 (9th Cir 1980) (when defendant has sufficient time and ability to conduct research his right to self-representation is not denied, 450 U.S. 1043 (1981). An incarcerated defendant may not meaningful excercise his right to represent himself without access to law books witnesses, or other tools to prepare a defense.... Here the defendant lacked all means of preparing and presenting a defense, and was unjustifiably prevented from contacting a lawyer or others who could have assisted him. We therefore hold the State may not unreasonably hinder the defendants efforts to prepare his own defense." Id at 1447 "The defendant in this case had no means to prepare a defense. When he was denied communication with the outside world, he was denied due process. The judgement of the district Court is reversed and the matter remanded with instruction to grant the Petition.

Petitioner and the record have shown that Petitioner, exercising his right to self-representation, and appionted stand-by counsel for trial only (see: RR. Vol 7 pg 3 at 20-22 and see: exhibit B) was denied access to a phone (free for indigent) to contact legal advisor/organizations, witnesses, DNA expert or his investigater, (see: exhibit C) showing Petitioner was denied compulsory process and very limited access to the courts. Petitioner went to trial unprepared agains't highly trained and experience attorneys for the State with the only possibility of a guilty verdict

In a concurring opinion, Id at 1447, Justice Hug Stated, A defendant has the sixth Amendment right Under Faretta V California, 422 U.S. 806, Id at 2525 (1975) to refuse the former "[appiontment of counsel] and to conduct his own defense, In doing so he may be offered the assistance of counsel in a varienty of ways - for pre-trial preparation and during trial. The assistance of counsel to a confined defendant would provide adequate access to the resources for him to conduct his defense."

The Court in this instant case appionted Petitioner, Stand-by Counsel. Petitioner believed this appiontment would assist him in preparing for trial, and assist him at trial, only later to learn (according to Stand-by) that stand-by was appionted to assist and advise at trial only. (See: R.R. Vol 7 pg. 3 at 19-22 and see; exhibit B) When Petitioner asked Stand-by Dick Turner any question, or about procedures, Turner's would reply "you need to get to the law library and look up your questions there, (See: R.R. Vol 7 pg 4 at 11-18) Also as soon as jury selection started Petitioner ask Turner about getting witnesses to trial and Turners reply was "oh you should have done that weeks ago." This question was asked throughout pretrial to no avail.

Milton v Morris, Id at 1448, In Summary, a defendant in jail is constutionally entitled to conduct his own defense, if he elects to do so by rejecting the services of an attorney to conduct his defense, he cannot be confined to his jail cell simply to look at the four walls and appear on the day of trial to defend himself....

Petitioner was led by the court and stand-by Counsel Dick Turner to believe he would have access to the law library to prepare for trial. (See: R.R. Vol 7 pg. 4 at 11-22; pg 9 at 17-22) and a free phone to contact witnesses, DNA expert, his investigater and legal advisor/consultants/organizations. Petitioner was denied all the foregoing, after dismissing his counsel. Petitioner made numerous request to jail officials, each denied each request averaging a (9) day responce causing further delay in potential preparation time trial (See: exhibit C)

See: United States v. Winters, 2024 U.S. Dist. Lexis 137567 Id. at 6 "If in reality, Mr. Winters faces a six week delay each time he makes a request for legal research materials, Mr Winters time to prepare a defense for trial would be cut severly short.... More over, Mr. Wadson remains as stand-by counsel and be consulted for legal research in the event of delay by the jail." Id at 7, so long as Mr. Winters has a meaningful access to legal research and supplies to prepare his defense, his Sixth [redacted] Amendment right to self-representation is fulled filled."

Petioner's request for phone access, legal research materials, or access to the law library were all denied by jail. Furthermore when Petitioner asked stand-by Turner any question pretrial Turner's responce was always 'you need to look it up yourself in the law library cause I was appionted to assist at trial.' This when Turner knew the jail was denying him access to law library and any free phone access (See: Exhibit B and RR Vol 7 pg 3 at 20[redacted]-22)

Petitioner was denied Compulsory Process by several means: 1) no access to a free phone at the jail prevented Petitioner from contacting his DNA expert to explain findings provided by the to Petitioner for his understanding, and provide expert witness testimony as to findings and/or conclusion of his review of the testing and procedures used and that semen can be placed on clothing as in this case or anywhere else for that matter. Petitioner was told by counsel his semen was only found on a bra that and that the bra belong to allege victom. At trial the State told jury Petitioner's semen was found in the vaginal swab, expert could have provided exculpatory testimony to the State's claim that severly prejudice Petitioner. 2) No free phone at the jail prevented Petitioner from contacting his investigater who could have interviewed potential witnesses for Petitioner and gave expert testimony as to his finding and conclusion that would have shown the semen found on the alleged victoms bra could have been placed there by another person, not petitioner. He to would have been able to show show the jury that the victoms testimony in part was fictional and not collaborative with his finding of facts. 3) No access to a free phone at the jail prevented Petitioner from contacting his witnesses to testify in his behalf to the events of the alleged offense in this case.

In Petitioner's first meeting with Stand-by Turner, Petitioner ask the procedure to obtain all his witnesses for trial. Turner reply was always to refer Petitioner to the law library for his answers to any question. Being Petitioner had no access to the law library, legal materials, or a limited amount of access to a free phone, Petitioner had no means to learn about his right to the compulsory process or how to envoke such right. The Court relaid to Petitioner he was appionted Stand-by counsel Turner to answer any question including procedural ones in preparing for trial as well as at trial, and Petitioner was relaying on such assistance. (See: R.R. Vol. 7 pg 4 at 11-15).

Mr Turner: "Judge I have talked to him about those issues. And I said that he probably needs to get into the law library out at the jail" (also See: R.R. Vol 7 pg 6 at 17-25; pg 7 at 1-5)
The Court: "Well Mr. Turner can advise here in the Courts and he can answer question for you...."
On April 21-2011 Turner Stated
Mr Turner: "I do plan on meeting with him given he's got some ~~additional~~ additional questions, but I will meet with him before -- probably the next four or five days." (See; R.R. Vol. 8 pg 3 at 24-25; pg 4 at 1) Turner never showed back up.) (also see: R.R. Vol 8, pg 4 at 21-23)
The Court: "Well Mr. Griffith, you'll need to work with your attorney and be ready when your case is set for trial on Monday May 9th 2011 at 8:30 am." (emphasis added) There after Petitioner ask the judge.
Defendant: "May I have one last word your honor? I've not had time to really speak with Mr. Turner with all my question, and I would like to have a meeting as soon as possible.
Mr Turner: "Yeah thats --"
Defendant: "He's busy today."
Mr Turner: "Thats our plan judge...." (see: RR Vol 8 pg 4 at 24-25; pg. 5 at 1-9) No future meeting ever took place.

Petitioner here merely wants to point out the bias actions of stand-by counsel, and the trial court; along with abuse of descretion, by the trial court not allowing Petitioner access to the courts, compulsory process, equal protection of the law, due process, right to an attorney leading to a unlawful and unfair trial. All showing a complete Miscarriage of justice and an innocent man being incarcerated without a fair trial. One final point in showing judicial bias and prejudice is the stacking of 3-99 year sentences, assured Petitioner would die in prison. Taking all the foregoing into consideration, Petitioner has shown the extreme bias has been shown by the trial Court and Stand-by Counsel against Petitioner due to the nature of the charged offense, as well as for Petitioner exercising his right to self-representation

MISCARRIAGE OF JUSTICE AND ACTUAL INNOCENTS (Question 3)

Circumstance that occurred pretrial made the entire trial fundamentally unfair. Petitioner was illegally and wrongfully convicted of a crime he did not commit, and was denied any oppertunity to prove his innocents. Petitioner has been through all the State and Federal Courts to no avail. After filing a successive writ in the convicting court, which refused two different orders by the TCCA to do fact finding and conclusion of law, the TCCA dismissed the writ without ever ruling on the merits of the structural errors that occurred pre-trial, making the entire trial fundamentally unfair. No person or fair minded jurist should have any confidence in the guilty verdict that was the results of a unjust, unfair trial; as stated in issue one + two. Petitioner was denied his substantial rights to a fair trial, denying Petitioner his 5th, 6th, and 14 Amendant rights to an attorney, the compulsory process, access to the Courts, a fair trial, equal protection of the law and due process of the law. Petitioner was denied the minimum tools that a indigent pro-se defendant needed and had a constitutional right to in order to prepare his defense. The record, exhibits and case law within this petition support all the Petitioners claim and a Miscarriage of justice taking place.

> See! Weaver v Massachuetts, 582 U.S. 286, 299 (2017) "The Court recognized however, that some errors should not be deemed harmless beyond a reasonable doubt. Id at 23 n. 8, 875, S.Ct. 824, 17 L.Ed.2d 705. Those errors come to be known as Structural errors. See; Fulminante 499 U.S. at 309-310, 111 S.Ct. 1246, 113 L.Ed 2d 302. The purpose [295] of the Structural error doctrine is to ensure insistance on certain basic, constitutional gaurantees that should define the frame work of any criminal trial. Thus the defining feature of a Structural error is that it affect[s] the framework within which the trial proceeds, "rather than being" simply an error in the trial itself." Id at 310, 111 S.Ct. 1246, 113 L.Ed 302. For the same reason, a structural error "def[ies] analysis by harmless [1908] error [is] standards." Id at 309, 111 S.Ct. 1246, 113 L.Ed 302 (internal quotation mark omitted) (emphasis added).

Without access to his DNA expert, investigater or any other witnesses, Petitioner could not challenge the States DNA expert findings or any of the State's witnesses testimony. This was so important because Jurors and people in general, believe DNA alone proves guilt and that is absolutely not true. The evidence surrounding the DNA and testing procedures used must be carefully looked at and taken into consideration to determine how any DNA came to be at a crime scene or in, or on a alleged victoms body. (DNA can only tell you who it belongs to and not how it came to be anywhere). The State presented the DNA in this instant case with false and misleading testimony. Petitioner being denied access to his DNA expert, as well as investigator and other witnesses could not challenge the State's DNA expert, or any of the testimony given by State's witnesses. Petitioner's DNA expert could have 1) gave a different analysis and perspective of what to believe about the DNA evidence and analysis. (See: exhibit D) which consist of two articles by DNA experts that could have aided and challenged the State's DNA experts findings and couldve helped Petitioner establish an alternative theory as to what the

State was claiming, as well as given the jury information concerning DNA and its reliability
2) To confirm if DNA belong to Petitioner, and if so, to confirm exactly where it was found.
3) To determine if any unknown DNA was found, (See exhibit F) which is a report from For-ensic Consultant Services that States at bottom of page results of examination #2 "Several reddish stained areas were detected on the front and rear of this garment. Identity of these stains are unknown; A dark scalp hair approximately 6" long was recovered." If any other male or female DNA was discovered it would've been very important to Petitioner to know because Petitioner believes that if his DNA showed up anywhere on clothing or in or on this alleged victom's body, that it had to be placed there by someone to frame Petitioner for a crime he did not commit. Petitioner for a few years was a functioning drug addict (meth) and worked 7 days a week for 5 years and never missed on day. Petitioner got to know some addicts that he would occassionally see late night at con-vience stores. These women would partake in sexual encounters with Petitioner for his Sharing of methamphetamine. This woud occur prior to Petitioner going to work Petitioner did this because he was in a misurable situation with his wife. These women, who had other men in thier lives, were all ok with this arrangement, as the women would bring some of the methamphetamine to them. However, there came a time when the Pe-titioner wanted to stop his drug use and stop living a very unhealthy life style. It took several attempts, but eventually (with help) Petitioner turned his life around. But each time the Petitioner attempted to quit, these men, who were involved with or associated with

the women would become very angry and make threats against Petitioner cause they felt Petitioner was holding out on them. They would often say Petitioner was going to pay for his arrangements he had with the women, which was ok as long as the drugs (meth) was available. And it was during the time of this alleged assault that took place in Sept. of 1999 that all this was going on. After Petitioner's arrest in 2009 for this and found out that his DNA is what [redacted] allegedly connected him to this allege crime that he knew he did not commit, had to be done by one of these men (possibly a Mr Black who the alleged victom identified as the person who assaulted her and was known to be in the area where crime began) or possibly one of the six other suspects in this case, who did have a motive and could have [redacted] easily have gained access to a used and discarded condum that contained Petitioner's DNA and went and committed this alleged crime. And its my understanding from testimony given that the alleged victom was immediately blindfolded throughout this ordeal, which wouldve gave the person who committed this crime plenty of time to [redacted] place Petitioners DNA from a used and discarded condum containing his DNA and place it anywhere at any time prior to, during or after the alleged assault.

Unfortunately without access to investigater, phone, DNA expert or any other witnesses, Petitioner had no way to prove what he believed had happen. Investigater could have located these women and obtained information from them on who may have possibly done this to Petitioner. Also investigater could have have contacted Petitioner District Manager, co-workers and customers at the end of his route to show Petitioner "never" finished his route no earlier than 7:30 Am. (Alleged crime started at 6:50 Am) Also Investigater could have spoke with a Convient Store Clerk who seen Petitioner every Monday as well as other days when Petitioner would stop after work and get a soda, cigs or a snack on the way home to verify what time Petitioner finished his route. Investigater could have spoken to a Mae Moore who seen Petitioner Mon-Fri because she came to Petitioner's house every morning to take care of elderly grandmother. Unfortunately Mrs. Moore passed away shortly after Petitioner was incarcerated. So without access to the minimum tools that a indigent pro-se defendant had a constitutional right to in order to prepare his defense he was not able to challenge and contradict most of the States evidence or witness testimony presented at trial. One State witness testified that Petitioner hungout at a couple's resident. This testimony was to put Petitioner in the area where victom lived. This State witness was just about to be released from prison/rehab and was a life long drug addict. Did she have something to gain by falsely testifying for the State? Petitioner don't know, but Petitioner does know she gave false testimony. Police reports and interviews with this couple adamently deny knowing Petitioner and Stated to police Petitioner never been to they're house. Petitioner had no way to copy these police reports or to contact investigater to contact the couple or subpoena the couple or any other witnesses that Petitioner needed to defend himself and to prepare for trial

The Judge relied solely on Stand-by Turner's opinion from his private, off the record conversation to determine that Petitioner fully understood and that Petitioner's decision to represent himself was voluntarily, intelligently and knowingly made. (See: RR. Vol 7 pg 7 at 6-28; pg 8 at 1) And throughout these brief conversation with stand-by Turner, Turner would always reinterate that he was to advise during trial only and would reassure Petitioner could find answers to any question he had in the law library, (See: R.R. Vol.7 pg 3 at 20-22; pg 4 at 11-18 and the Judge went along with this. (See: exhibit A + B).

See Robinson v Lousiana, 606 Fed. Appx. 199 (5th Cir 2015) [redacted], [redacted]. (per carium) ("Judge did not warn Robinson about dangers of proceeding to trial prose allowing Petitioner to represent himself; "The trial courts reliance on stand-by counsel's representation was insufficient to represent himself") also See: Gross v Cooper, 31 Fed. Appx. 671 2009 U.S. App. Lexis 4247 (5th Cir March 3rd 2009) (Trial Judge violated Faretta v California by accepting accused waiver of counsel without adequately warning [redacted] Gross about dangers of self representation and adequately evaluating the defendants back ground")

Petitioner has shown in issue one and issue two that structural errors did occur. A error has been deemed structural in some instances if the right at issue is not designed to protect the defendant. [redacted] from erroneous conviction, but instead protects other interest. This is true of the defendants right to conduct his own defense.

Petitioner would like to offer (exhibit E) [redacted] that at least one of the three charges that alleged anal contact with Petitioners penis during an alleged attempt to sodomize the alleged victom [redacted] is completely false and fantasy. There was no 'trama' to alleged victom's anus area. No bleeding, no tearing, no nothing. And the Tarrent County Physical + Sexual Abuse Medical Protocal (exhibit E) clearly has alleged victom stating "no anal contact by penis, finger or foreign object."

Petitioner prays this Honorable court can see the structural errors that occurred pre-tral did lead to the violations of Petitioners 5th, 6th + 14th Amendment rights; and that Petitioners trial was a complete miscarriage of justice

Petitioner ask this Honorable Court to Vacate this illegal wrongful conviction and dismissed with prejudice the indictment and all charges related to this criminal case

INEFFECTIVE ASSISTANCE OF COUNSEL/DIRECT APPEAL ATTORNEY (question 4)

Court appointed Direct Appeals Attorney, Mr Barkman only argued Petitioner should not have been allowed to represent himself and supported his arguement with no case law while ignoring all the issues presented in this Petition, issue one, issue two and issue three making him ineffective. Mr Barkman was made aware of these issue prior to Petitioner going to TDCJ.

See: Martinez v Ryan, 566 U.S. 1 at Id. 11 (SCt March 20 2012) "As Coleman recognized, an attorney's error during an appeal on direct review may provide cause to excuse a procedural default; for if the Attorney appionted by the State to pursue the direct appeal is ineffective, the prisoner has been denied a fair process and the opportunity to comply with State procedures and obtain an adjudication on the Merits of his claim...."

Petitioner was denied his 5th, 6th and 14th Amendment rights to an attorney, the compulsory process denying Petioner equal protection of the law and due process of the law; denied the minimum tools a indigent pro se defendant needed and had a right to in order to prepare a defense, no access to legal materials/law library, no free phone access and no access to legal advisor/legal organization that couldive assisted Petitioner in preparing for trial. The entire trial was fundamentally unfair due to the pre-trial structural errors.

Petitioner ask this Honorable Court to Vacate this conviction with prejudice along with all charges associated with this conviction or any relief this Honorable Court can offer.

REASONS FOR GRANTING THE PETITION

The Justice System, specially in the process of a State criminal trial should be held to a high standard, specially those that are within the justice system such as Judges, prosecutors, attorneys, including stand-by Attorneys and/or Direct Appeals Attorneys. And even though theres no gaurantee of a error free trial, we should all hope that those with in the justice system will do all they can to ensure every criminal defendant who pleads innocents and wishes to go to trial, as his or her right, will recieve a just and fair trial

In this instant case Petitioner believes this writ should be granted due to Petitioner being denied a right in any way to properly prepare his defense due to the pre trial structural errors denying Petitioner a fair trial and denying him any oppertunity to prove his innocents or at the very least to show reasonable doubt that someone else committed this alleged crime.

The State Subsequent writ was never ruled on for its merits. The AEDPA is not going to entertain a Subsequent Writ where the State refuses to rule on the merits and previous federal writ was time barred and dismissed with prejudice.

If this Honorable Court does not, at the very least look at Petitioners ground to see that they do have merit, Petitioner will die in prison without ever having a fair trial. Its just Petitioner opinion that these structural errors were not accidental but malicious and purposely done to get a conviction. The Judge, Stand-by and Jail Officials worked in concert to deny petitioner his constitutional right to defend himself denying him a fair trial.

Petitioner would like to quote U.S. Supreme Court Judge, Justice William Brennan Jr. "The foundation of American justice is the right to a fair trial by a jury of our peers. Its more than a foundation, its a promise, a gaurantee to each and every American to do the best we can to deliver justice. And justice begins with a fair trial" (end quote).

In the interest of justice Petitioner believes this writ should be granted, Petitioner's liberties and life was taken from him due to a unjust and unfair trial

PRAYER

Petitioner prays this Honorable court will vacate this illegall conviction and dismiss all charges with prejudice / associated with the conviction and give Petitioner back his freedom that was illegally taken from him; or any relief this Court can give Petitioner and is in the interest of justice

CONCLUSION

A Miscarriage of Justice did occur because Petitioner was denied his 5th, 6th and 14th Amendment rights to a fair trial as stated in this Petition. The convection was illegally obtained without Petitioner be given a fair trial and a fair oppertunity to prove his innocents

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Dennis Griffith / Dennis Griffith

Date: July 3rd 2025