

IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM 2018

JOSEPH W. HILL, PETITIONER

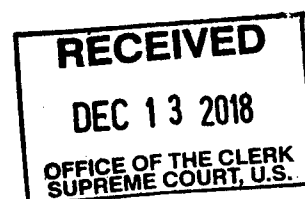
vs.

LORIE DAVIS, DIR. TDCJ, RESPONDENT(S)

PETITIONER FOR REHEARING

ON DENIAL OF PETITION FOR A WRIT OF CERTIORARI
NO. 17-9138

JOSEPH W. HILL, PRO SE
EASTHAM UNIT, TDCJ# 1801977
2665 PRISON ROAD #1
LOVELADY, TEXAS 75851
(PETITIONER PRO SE)



I.

INTRODUCTION

Mr. Hill filed his original petition for writ of certiorari on December 27, 2017. On October 1, 2018, this Honorable Court denied Mr. Hill's petition for writ of certiorari.

Mr. Hill now moves this Honorable Court for a petition for rehearing, pursuant to Rule 44.1, Supreme Court Rules.

II.

REASON FOR GRANTING PETITION FOR REHEARING

I. UNREASONABLE DETERMINATION OF THE FACTS

Mr. Hill presented within his writ of certiorari a viable offer of proof, that the Court of Criminal Appeals of Texas failed to make a ruling on his original 11.07, stating that:

"[Y]our application for writ of habeas corpus has been dismissed. Conviction not final; mandate not issued at time application filed in trial court. See Ex parte Johnson, 12 S.W.3d 472 (Tex.Crim.App. 2000)."

On December 11, 2013, See Appendix "C". However, on October 10, 2013, the mandate referred to by the Texas highest court had already issued by the Court of Appeals for the 14th District of Texas.

This error in judgment by the Texas highest court is what Mr. Hill relied on in filing his subsequent state writ of habeas corpus, when in actuality his first writ of habeas corpus had

been properly filed. In the present matter, Mr. Hill was faced with what the United States Congressional Legislature and the United States Supreme Court has recognized, as a "State imposed impediment". See 28 U.S.C. § 2244(d)(1)(B).

In furtherance, the State of Texas, misled Mr. Hill through the "direct review" appeal process, by appointing him Counsel on appeal; to ultimately find out, that (1) habeas corpus was his only route to establish his constitutional claims, and (2) that counsel should have been appointed on initial collateral review. This Honorable Court over looked this fact and summarily denied this case, when Mr. Hill was entitled to relief as a matter of law. This Honorable Court should review Mr. Hill's case, not because of the fundamental injustice that was done, but because denial violates this Court's own holding under *Trevino v. Thaler*, 133 S.Ct. 1911, 1921(2013): When

"[T]he right involved" is "adequate assistance of counsel at trial, ""practical considerations, such as the need for a new lawyer, the need to expand the trial court record, and the need for sufficient time to develop the claim, argue strongly for initial consideration of the claim during collateral, rather than on direct, review".

In *Holland v. Florida*, 560 U.S. 631, 659(2010)(Alito, J. concurring), stated the if the prisoners allegation, if true, would constitute an "extraordinary circumstance" justifying equitable tolling because:

"[C]ommon sense dictates that a litigant cannot be held constructively responsible for conduct of an attorney who is not operating as his agent in any meaningful sense of that word".

Holland, 560 U.S. at 659

II. PETITION FOR REHEARING MADE IN GOOD FAITH AND NOT FOR DELAY

Mr. Hill asserts, that the foregoing petition for rehearing has been made in "good faith", because Mr. Hill presents a plausible claim for relief; nor has the petition for rehearing been made for the purpose of delay. Therefore, this Honorable Court should grant a rehearing of Mr. Hill's petition for writ of certiorari.

III.

CONCLUSION

For the foregoing reasons, the Petition For Rehearing should be granted, as a matter of law.

Respectfully Submitted,

Joseph Hill

Joseph W. Hill

Date: 10/17/18 Resubmission Date: 12-06-18

I, Joseph W. Hill, TDCJ# 1801977, declare under the penalty of perjury that the foregoing is true and correct, pursuant to 28 U.S.C. § 1746.

Executed on this the 06 day of December, 20 18.

Joseph Hill
Joseph W. Hill