

No. 18-869

**In The
Supreme Court of the United States**

SHAWN HALL LECUONA, Petitioner,

v.

MARK R. LECUONA, Respondent

**ON PETITION FOR WRIT OF CERTIORARI TO
THE TEXAS SUPREME COURT**

PETITION FOR REHEARING

**THE ADVOCATE
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INTRODUCTION

This *Petition for Rehearing* under Rule 44, based on "other substantial grounds not previously presented" comes after the issuance of an order by this Court denying Writ of Certiorari, March 18, 2019.

STATEMENT ON THE MERITS

In the interest of Liberty and Justice, in their Judicial power given by Article III, the Ninth and Tenth Amendments and the Texas Constitution, Truth has been seen and acknowledged by "inferior" Judges, they being limited in power to that which is given to this one Court, to be heard for the Love of the people. (App. 70A-71A).

Writing for the unanimous Texas Court of Appeals, Third District, at Austin, Justice Pemberton, states, "*In the very least*, Shawn's theory represents a *significant and novel expansion* of *Obergefell* that is *not properly undertaken* by this intermediate state appellate court." Chief Justice Rose, Justices Goodwin and Pemberton add footnote ⁹ for authority in the above, "(observing, in context of novel constitutional challenge to Penal Code Section 21.12, that "as an intermediate state appellate court, we must ... defer to the authoritative pronouncements of *higher courts that currently define the scope of the constitutional principles we*

apply here" (citing *Ex parte Morales*, 212 S.W.3d 483, 488 (Tex. App.--Austin 2006, pet. ref'd), (citing *Petco Animal Supplies, Inc. v. Schuster*, 144 S.W.3d 554, 564-65 (Tex. App.--Austin 2004, no pet.)) (emphasis added).

Seeing the significance of the merits of the appeal (of both a final decree of divorce and an order denying declaratory relief), the Court added the word "*immutable*" to 'blood covenant' among the couple and the Almighty" to describe what they had become convinced to be a "significant and novel expansion of *Obergefell* not properly undertaken by this intermediate state appellate court". *Lecuona v. Lecuona*, No. 03-17-00138-CV, 2018 WL 2994587, (Tex. App. June 15, 2018) (memo op.) p. 2. (App. 4A-6A) On October 5, 2018, the Texas Supreme Court agreed – less than four months later. (App. 1A).

Seeing the conflict within the Law, Texas refrained from exercising greater power than that by which they had been given under the Law, thereby affirming the lower court's decree of divorce and denial of declaratory judgment. (App. 2A, 3A-11A).

What federal question had they resolved to reveal a conflict in the Law needing the aid of this Court?

Texas had acknowledged and wrote into Law a special legal status of constitutional importance for marriage. Application of §6.001 (its 'no-fault'

divorce statute) of the Texas Family Code applied to *Lecuona v. Lecuona*, directly conflicted with the words adopted and written by this supreme Court 7 months *before*.

In *Evenwel v. Abbott*, 578 U.S. ____ (2016); 136 S.Ct. 1120, writing for the majority, JUSTICE GINSBURG emphasized “the basis of *representation* in the House was to include *all* inhabitants”, in writing about representation of each person in the community, in the Electoral College. Now here also, referring to original intent expressed in the rule of apportionment as expressed by James Madison in the Federalist Papers, Madison recognized the necessity of *every* voice being heard in the House membership, “By extending the rule to both objects, the States will have opposite interests which will control and balance each other and produce the requisite impartiality.” The Federalist No. 54, p. 341, (C. Rossiter ed. 1961).

We agree. “Certain rights”... “are retained by the people”. U.S. Const. amend. IX (App. 77A). “The powers not delegated ... nor prohibited ... are reserved ... to the people.” U.S. Const. amend. X (App. 70A).

Article III, §3, ¶2, restricts the power of lawmakers from working “*Corruption of Blood*,” against the People (App. 71A), written after the expression of intent prayed in the First Congressional Prayer of 1774, so that “peace may be effectually restored, and

truth and justice, religion and piety, prevail and flourish amongst the people.” First Prayer of the Continental Congress, September 7, 1774, <https://chaplain.house.gov/archive/continental.html>.

Under the Tenth Amendment the Texas Constitution, Bill of Rights provides checks on the balance of power *from within* and without.

“The *faith* of the people of Texas stands pledged”. “No religious test shall ever be required ... in this State; nor shall any one be excluded from holding office on account of his religious sentiments, *provided he acknowledge the existence of a Supreme Being.*” “No person shall be disqualified to give evidence in any of the Courts of this State on account of his religious opinions, or for the want of any religious belief, all oaths, or affirmations shall be administered in the mode most binding upon the conscience, and shall be taken subject to the pains and penalties of perjury.” Tex. Const. art. 1, §§ 2, 4-5 (emphasis added). (App. 71A-72A).

“MARRIAGE. (b) This state or a political subdivision of this state may not create or recognize any legal status identical or similar to marriage.” Tex. Const. art. 1, § 32(b). (emphasis added). (App. 72A).

A multitude of Americans, including Texans, live their lives, conduct their households according to the dictates of their conscience, endeavoring to be in alignment with the words written in the *Holy Bible*,

and being led by the Spirit of God -- Almighty God, a Supreme Being. Therein, the *Bible* includes -- “the book (the written record, the history) of the generations of the offspring of Adam.” *Genesis* 5:1(a), “the history of the generations of Noah.” *Genesis* 6:9(a), *THE AMPLIFIED BIBLE®*, hereinafter referred to as (AMPC).

The “book” defines marriage, before, during and after the times of the lives of men of another age. Each part of the book speaks to the covenant of marriage beginning in the land of Israel, prior to, during and after, the words spoken of men serving as teachers and philosophers, such as Confucius and Cicero *Internet Encyclopedia of Philosophy*, <https://www.iep.edu/confuciu/>; <https://www.iep.edu/cicero>.

“And the firstborn son shall succeed to the name of the dead brother, that his name may not be blotted out of Israel.” *Deuteronomy* 25:6 (AMPC). The purpose of marriage in life, “Carrying on the Name – Levirate Marriage, the importance of the survival of the family is encapsulated by the idea of carrying on ‘the name,’ ‘which led to the laws on Levirate marriage”. “By means of Levirate marriage, the family could retain the reproductive powers and the labor of the wife for the good of the family into which she had originally married.” *Women at The time of the Bible*, p. 40 (M. Feinberg Vamosh).

In *Obergefell v. Hodges*, 576 U. S. __ ; 135 S. Ct. 2584 (2015), writing for the majority, JUSTICE KENNEDY, the Court wrote about marriage, as a “*lifelong union* of a man and a woman [which] always promise[s] nobility and dignity to *all* persons, *without regard to their station in life*.” [brackets denote changes to verb tense from its original]. *Ibid.* at p. 2594.

“*Marriage is sacred* to those who live by their religions and offers unique fulfillment to those who find meaning in the secular realm. Its dynamic allows two people to find *a life that could not be alone, for a marriage becomes greater than just the two persons*. Rising from the most basic human needs, marriage is essential to our most profound hopes and aspirations.” “Marriage, ... *union of man and woman ... continues to be held – in good faith by reasonable and sincere people here and throughout the world*.” Acknowledging “respect—and need—for its privileges and responsibilities” emanating from “their *immutable nature*” as the “*only real path* to this profound commitment”. “The centrality of marriage to the human condition makes it unsurprising that the institution has existed for millennia and across civilizations. Since the dawn of history, marriage has transformed strangers into relatives, *binding* families and societies together.” *Ibid.* (emphasis added).

CHIEF JUSTICE ROBERTS, with whom JUSTICE SCALIA and JUSTICE THOMAS joined

in the dissent saying, “The people who ratified the Constitution authorized courts to *exercise*”, citing The Federalist No. 78, p. 465 (C. Rossiter ed. 1961) (A. Hamilton), “neither *force nor will* but merely judgment.” (emphasis added), and looked to a dictionary to define “marriage”, “In his first American dictionary, Noah Webster defined marriage as ‘the legal union of a man and woman *for life*,’ which served the purposes of “preventing the promiscuous intercourse of the sexes ... promoting domestic felicity, and ... securing the maintenance and education of children.” *Ibid* at p. 2611. (emphasis added).

Many people of faith adhere to the written Word of God to gain understanding of marriage in life found therein. “Now the Lord God said, ‘It is not good (sufficient, satisfactory) that the man should be alone; I will make him a *helper meet* (suitable, adapted, complementary) for him.’” *Genesis* 2:18 (AMPC) (emphasis added).

“Therefore a man shall leave his father and his mother and shall become united *and* cleave to his wife, and they shall become *one* flesh.” *Genesis* 2:24 (emphasis added). [Matt. 19:5; 1 Cor. 6:16; Eph. 5:31-33.] “So God created man in His own image, in the image *and* likeness of God He created him; male and female He created them.” *Genesis* 1:27 (AMPC) [Col. 3:9, 10; James 3:8, 9.] “He created them male and female and blessed them and named them [both]

Adam [Man] at the time they were created.” *Genesis* 5:2 (AMPC).

When a couple in Christ Jesus exchange rings, a memorial of covenant is made, of the everlasting covenant in God, in marriage, a finished by the Blood of Jesus, each haven chosen His Life, declaring openly, before Almighty – Supreme Being, and witnesses, what He has joined together “no man may separate or divide”. Through the Blood of Jesus, spouses unite, like 50 states of one Union, as one in name, identity, purpose, life – growing trusting in God. *Matthew* 19:6 (AMPC); *Mark* 10:9 (AMPC). For He is [Himself] our peace (our bond of unity and harmony).” *Ephesians* 2:12-14 (AMPC).

“But Noah found grace (favor) in the eyes of the Lord. *Genesis* 6:5, 8 (AMPC). “When the bow [rainbow] is in the clouds and I look upon it, I will [earnestly] remember the *everlasting covenant pledge* between God and every living creature of all flesh that is upon the earth. And God said to Noah, “This [rainbow] is the token sign of the *covenant solemn pledge* which I have established between Me and all flesh upon the earth.” *Genesis* 9:16-17 (AMPC) (emphasis added).

“As for the life of all flesh, the blood of it represents the life of it.” *Leviticus* 17:14(a) (AMPC). Children born of marriage have life in them coming from their parents as foreordained by

Almighty God. They are living breathing examples of life created from spirit, soul and body – “flesh”.

“Permanence of the marriage-bond” is spoken “by Jesus in His discussion with the Pharisees about divorce” after the days of the B.C. philosophers, in the *Holy Bible* Gospel account of the New Testament. The Truth about marriage is revealed in the answer to the question posed by the thinkers of that day, “Is it lawful for a man to dismiss *and* repudiate *and* divorce his wife? *Mark* 10:2 (AMPC) (emphasis added). JESUS, on His way from Capernaum to Judea and beyond [eat of] the Jordan,” answered saying, “What did Moses command you? *Mark* 10:3 (AMPC). “They” (the Pharisees), “replied, Moses allowed a man to write a bill of divorce and to put her away.” *Mark* 10:4 (AMPC) (emphasis added). “*But* JESUS said to them, ‘Because of your hardness of heart [your condition of insensibility to the call of God] he wrote this precept in your Law. *But* from the beginning of creation God made them male and female. [Gen. 1:27; 5:2]. *Mark* 10:6 (AMPC) (emphasis added). “For this reason a man shall leave [behind] his father and his mother and be joined to his wife and cleave closely to her *permanently*, And the two shall become one flesh, so that they are no longer two, but one flesh.” [Gen. 2:24.] *Mark* 10:8 (AMPC) (emphasis added). “What therefore God has united (joined together), *let not man separate or divide.*” *Mark* 10:9 (AMPC) (emphasis added).

Failure to take heed of the voice of conscience in alignment with the Will of God led by the Presence of His Spirit, from either wife or husband of the marriage covenant, causes the whole union to be corrupted in the land in which they live, in that nation. *James 4:8* (AMPC).

It is written, “double guilt covers the altar of the Lord with tears [shed by unoffending wives, divorced by you who take heathen wives], and with [your own weeping and crying out because the Lord does not regard your hand.] Why does the Lord reject his offering? Because the Lord was witness [to the covenant made at your marriage] between you and the wife of your youth, against whom you have dealt treacherously and to whom you were faithless. Yet she is your companion and the wife of your covenant [made by your marriage vows]. And did not God make [you and your wife] one [flesh]? Did not One make you and preserve you spirit alive? And why [did God make you two [one]? Because *He* sought a godly offspring [from your union].” *Malachi 2:13-15* (AMPC).

In writing about this lifelong marriage-bond Jewish sages in Gittin 90a quote Malachi 2:13-15 – the ‘altar sheds tears’ when a man divorces the wife of his youth. Respected “10th century Rabbi Gershom prohibited (who also prohibited polygamy) divorcing a woman without her consent.” Women at the time of the Bible, p. 37-38.

For those who are in God, the Spirit of God, the “Helper” Himself, consecrates the marriage which He unites firmly on the wedding day, when the two become one flesh. On that day the birth of the marriage, the family, occurs, thereafter offspring may come into the family of God. For it is written, “It is the Spirit Who gives life [He is the Life-giver]; the flesh conveys no benefit whatever [there is no profit in it]. The words (truths) that I have been speaking to you are spirit and life.” *John 6:63* (AMPC).

Along with the judiciary, the first founders of the federal Constitution set out the other two branches of government, one to “hold the sword of the community”, two, to hold the “purse”, *The Federalist No. 78*, p. 465 (C. Rossiter ed. 1961) (A. Hamilton), so as to form a more perfect union of the people in the states so as not to Corrupt the Blood. Like a border wall around an ancient city, “Corruption of Blood” brings evil to the people in the land wherein they live. We must “turn away our minds from conduct [such as that contained in a divorce proceeding] and repent of their (our) doings”, in order to be reformed in restoration in peace in life. *Revelation 2:22* (AMPC) (emphasis added).

Two different trial Judges compelled by state statute (“no-fault” divorce), followed through with the desire of one voice over another voice of that same marriage-bond, working Corruption of the Blood. On October 8, 2015, one trial Judge denied

declaratory relief (App. 12A-13A, 30A), having understood testimony given under affirmation, working Corruption of Blood. (26A). On November 30, 2016, a trial Judge announced a decree to separate and divide an inseparable marriage-bond in family, working "Corruption of Blood", against Peace, within and without the Household of faith, from sea to shining sea. *Lecuona v. Lecuona*, TC#: D-1-FM-14-002342.

On September 7, 1774, the First Prayer of the Continental Congress, was given over the inaugural House of Representatives, in unity, purpose, identity, calling, trusting in God, in The Law of God, in the Word of God "in the name and through the merits of Jesus Christ, Thy Son and our Savior." before going forth to govern the affairs of this nation, on behalf of The People, endeavoring to work no "Corruption of Blood" in the Covenant promises of God:

"O Lord our Heavenly Father, high and mighty King of kings, and Lord of lords, who dost from thy throne behold all the dwellers on earth and reignest with power supreme and uncontrolled over all the Kingdoms, Empires and Governments; look down in mercy, we beseech Thee, on these our American States, who have fled to Thee from the rod of the oppressor and thrown themselves on Thy gracious protection, desiring to be henceforth dependent only on Thee. To Thee have they appealed for that

righteousness of their cause; to Thee do they now look up for that countenance and support, which Thou alone canst give. Take them, therefore, Heavenly Father, under Thy nurturing care; give them wisdom in Council and valor in the field; defeat the malicious designs of our cruel adversaries; convince them of the unrighteousness of their Cause and if they persist in their sanguinary purposes of own unerring justice, sounding in their hearts, constrain them to drop the weapons of war from their unnerved hands in the day of battle!

Be Thou present, O God of wisdom, and direct the councils of this honorable assembly; enable them to settle things on the best and surest foundation. That the scene of blood may be speedily closed; that order, harmony and peace may be effectually restored, and truth and justice, religion and piety, prevail and flourish amongst the people. Preserve the health of their bodies and vigor of their minds; shower down on them and the millions they here represent, such temporal blessings as Thou seest expedient for them in this world and crown them with everlasting glory in the world to come. All this we ask in the name and through the merits of Jesus Christ, Thy Son and our Savior. Amen."

First Prayer of the Continental Congress,
1774. The Office of the Chaplain, United
States House of Representatives, (Rev. J.
Duche), Rector of Christ Church of
Philadelphia, Pennsylvania.

CONCLUSION

In accord with the aforementioned, this *Petition for Rehearing* is hereby respectfully submitted in trust that it shall be granted.

Respectfully submitted,
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CERTIFICATE OF COUNSEL

As required by Supreme Court Rule 44, the undersigned does hereby certify that this PETITION FOR REHEARING in Cause No. 18-869 is restricted to the grounds specified in Supreme Court Rule 44.2, is presented in good faith and not for delay. I declare under penalty of perjury that the foregoing is true and correct.

Executed on this the 11th day of April, 2019.

A handwritten signature in cursive script, appearing to read "Shawn Hall Lecuona", written over a horizontal line.

THE ADVOCATE

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**Additional material
from this filing is
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