

No. 24-6968

IN THE
SUPREME COURT OF THE UNITED STATES

ORIGINAL

FILED
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OFFICE OF THE CLERK
SUPREME COURT, U.S.

WILLIE RODRIQUEZ JONES — PETITIONER
(Your Name)

VS.

VERONICA LILLY — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

CRIMINAL APPEALS OF TEXAS

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

WILLIE RODRIQUEZ JONES
(Your Name)

Michael Unit
(Address)

2664 FM 2054 Tennessee Colony, TX 75886
(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

Petitioner contends that trial court was without jurisdiction to proceed to judgment and convict. Due to a "structural;error, " which affects the framework within which the trial proceeds, as distinguished from a lapse or flaw that is simply an error in the trial court.

Trial Court, failed to inform Petitioner, or conduct "ANY" pre-trial hearing concerning the professional misconduct on the part of Petitioner trial counsel, "Before"or "After", Petitioner, went to jury trial and were found guilty due to trial counsel professional misconduct. See: Appendix-A; Appendix-B.

1. Did the trial court lose jurisdiction to proceed to judgment and convict? "When the trial court failed to inform Petitioner, about the professional misconduct."
2. Did the Court of Appeals erred in utilizing an inferential approach in determining whether Petitioner, right to the effective assistance of counsel had been violated?
3. Did Petitioner, intelligently and competently waived his right to effective assistance of counsel?
4. Do Direct Collateral Review Creates Path Around AEDPA Hurdles for State Prisoners Seeking Postconviction Relief?
5. Did the Court of Criminal Appeals, erred by dismissed without written order , Petitioner 11.07 habeas corpus, as a subsequent application? " When Petitioner, alleging ineffective assistance of counsel claim."

6. Do claim of ineffective assistance of counsel frequently require an evidentiary hearing? " Where there is a dispute between the client and attorney over what occurred, the trial court is require to make a credibility determination that can best be made after a live hearing."

7. Are ineffective assistance claim are excepted from the general rule of error preservation set forth in Rule 33.1 (a) and may be raised in an application for writ of habeas corpus even if not raise first in the trial court?

8. Can a Civil Attorney represent a capital murder case in trial, and NOT be ineffective?

9.
Is it the duty of the "trial court", to inform Petitioner, that he had hire a civil attorney, to represent him in a capital murder trial ?

10. Whether the Court of Appeals has correctly interpreted the Sixth Amendment; provides, in pertinent part:

" In all criminal prosecution, the accused shall enjoy the right...to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor and to have the Assistance of Counsel for his defence."

LIST OF PARTIES

All parties appear in the caption of the case on the cover page.

All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows: Jones, Willie Rodriguez Tr. Ct. No. C-297-W012533-0547689-E WR-37,608-06, COURT OF CRIMINAL APPEALS OF TEXAS

RELATED CASES

Jones, Willie Rodriguez Tr. Ct. No. C-297-W012051-0547689-D WR-37,608-04

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STATUTES AND RULES

Criminal Process, Assistance of Counsel, The constitutional right of an accused to be represented by counsel invokes, of itself the protection of a trial court, in which the accused-whose life or liberty is at stake-is without competence counsel.

This protecting duty imposes the serious and weighty responsibility upon the trial judge of determining whether there is an intelligent and competent waiver by the accused. While an accused may waive the right to counsel, whether there is a proper waiver should be clearly determined by the trial court, and it would be fitting and appropriate for that determination

OTHER
to appear upon the records.

IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

For cases from **federal courts**:

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

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

The opinion of the United States district court appears at Appendix _____ to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix DJE; F to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

The opinion of the CRIMINAL APPEALS OF TEXAS court appears at Appendix C to the petition and is

reported at WR-37,608-06; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

JURISDICTION

For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was _____

No petition for rehearing was timely filed in my case.

A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ___ A _____.
The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

For cases from **state courts**:

The date on which the highest state court decided my case was 12/18/2024.
A copy of that decision appears at Appendix C.

A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ___ A _____.
The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

U.S. CONST. AMEND VI

In all criminal prosecutions, the accused shall enjoy the rights to a speedy and public trial, by an impartial jury of the State and District wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witness against him; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

U.S. CONST. AMEND/ XVI

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life; liberty; or property, without "due process" of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Tex. Code. Crim. Proc. Art. 11.07 § 4 (b)

If an applicant can invoke a legal basis for relief that was unavailable at the time of his initial post-conviction writ application, the applicant may overcome the section 4 statutory bar. (1) to do so he must establish that the legal basis was not recognized by and could not have been reasonably formulated from a final decision of the United States Supreme

Court, a Court of Appeals of the United States, or a Court of Appellate jurisdiction of the state of Texas on or before the date of the application.]]

Direct Collateral Review, 28 U.S.C. §1257 (a), the as a direct appeal taken to the Supreme Court from a state court judgment. This distinction is important because it removes DCR from the realm of habeas corpus and all of its restrictions.

STATEMENT OF THE CASE

A complaint was docketed by the Grievance Committee for State Bar District No.07A, State Bar of Texas, against Bryan K. Buchanan, Texas Bar Number 03285800, (hereinafter called "Respondent") a licensed attorney and member of the State Bar of Texas, residing or maintaining an office in Fort worth, Texas, Tarrant County, by State Bar of Texas, as Complainant, alleging certain acts of professional misconduct on the part of the Respondent which occurred in Tarrant County, Texas. A Panel of the Committee has conducted a hearing on this complaint and having considered all of the evidence submitted, and by agreement of the Respondent lawyer, has on February 23, 1996 made the following findings of fact and conclusions of law:

I.

FINDINGS OF FACTS

3. In the course of representing a client on a charge of capital murder, Respondent neglected a legal matter entrusted to him by violating a lawful court order and failed to appear as lawfully directed by the presiding judge in the 297th judicial District Court, on November 6,1995.
4. Respondent failed to contact his client to allow his client to make informed decisions concerning the representation during the week of November 6,1995.
5. Respondent's failure to appear unreasonably increased the costs of the capital murder case; disrupted the orderly proceedings of the court; delayed the administration of justice; wasted time and resources of court personnel, witnesses and

jurors and offended the dignity and integrity of the Court.

II.

CONCLUSIONS OF LAW

It is agreed that the foregoing finding of fact support a violation of Rule(s) 1.01, (b) (1); (103 (b), 3002 and 3.04 (c) (5) of the Texas Disciplinary Rules of Professional Conduct Articles X, Section 9, State Bar Rules.

The Trial Court; State Bar of Texas; or Petitioner, Trial Counsel, NEVER conduct "ANY" hearing, or inform Petitioner, about the "professional misconduct". This protecting duty impose the serious and weighty responsibility upon the trial judge of determining whether there is an intelligent and competent waiver by the accused, at a critical stage of the proceeding because of some type of state interference or if counsel was burden by an actual conflict of interest which adversely affected counsels performance. *Mitchell v. State, S.W. 2d 747, 748 (Tex. Crim. App. 1999)*)

A judgment of conviction of one who did not effectively waive his constitutional right to the assistance of counsel for his defense is void as having been rendered without jurisdiction.

REASONS FOR GRANTING THE PETITION

To deprive a citizen of his only effective remedy would not be contrary to the rudimentary demands of justice but destructive of a constitutional guarantee specifically designed to prevent injustice.

Rule 33.1 (a) of the Texas Rule of Appellate Procedure generally requires that a complaint be presented to the trial court "by a timely request, objection, or motion" as a prerequisite to raising the complaint on direct appeal TEX.R.APP.P.33.1 (a). There are, however, many practical difficulties with requiring a defendant to raise the issue of ineffective assistance of counsel at the time of trial or even in a motion for new trial. *Seem Robinson v. State, 16 S.W.3d 808, (Tex. Crim. App. 200).* The biggest difficulty is that there is generally no real opportunity to adequately develop the records for appeal at this time. This creates a usually insurmountable hurdle to raising an ineffective assistance claim on direct appeal.

"Rarely will a reviewing court be provided with the opportunity to make its determination on direct appeal with a record capable of providing a fair evaluation of the merits of the [ineffective assistance]]]]]]]]]]]]] claim.. *Thompson v. State, 9 S.W. 3d 808,813 (Tex. Crim. App. 1999).* Thus, for most ineffective assistance claims, a writ of habeas corpus is the preferred method for raising the issue. *Ex parte Torres, 943 S.W. 2d 469,475 (Tex. Crim. App. 1997).* For a multitude of reasons ineffective assistance claims are excepted from the general rules of error preservation set forth in Rule 33.01 (a) and may be raised in an application for writ of habeas corpus even

if not raised first in the trial court. Robinson v. State, *supra* at 812-13.

According to the Court of Criminal Appeals, it is unnecessary for a defendant to meet the prejudice requirement of Strickland if he was actually or constructively denied the assistance of counsel altogether, if counsel was prevented from assisting the accused at a critical stage of the proceedings because of some type of state interference, or if counsel was burdened by an actual conflict of interest which adversely affected counsel's performance. *Mitichell v. State*, 989 S.W. 2d 747,748 (Tex. Crim. App. 1999).

A prisoner in custody pursuant to the final judgment of a state court of criminal jurisdiction may have a judicial inquiry in a court of the United States into the very truth and substance of the cause of his detention, although it may become necessary to look behind the records of his conviction to a sufficient extent to test the jurisdiction of the state court to proceed to a judgment against him. It is open to the courts of the United States upon an application for writ of habeas corpus to look beyond forms and inquire into the very substance of the matter.

An accused's right to be represented by counsel is a fundamental component of our criminal justice system lawyer in criminal cases are necessities not luxuries. Of all the rights that an accused person has, the right to be represented by counsel is by the most pervasive for it affect his ability to assert any other rights he may have.

Petitioner, argues a court's jurisdiction at the begining of trial may be lost in the course of the proceedings due to failure to complete the court - as U.S. Const. VI-requires-by providing counsel for an accused is entitled to a reasonably competent attorney whose advice is within the range of competence demanded of attorneys in criminal case. The United States Constitution guarantees an accused adequate legal assistance. United States v. Cronic, 466 U.S. 648. Johnson v. Zerbst, 304 U.S. 458.

Due to trial court erred in not disclose the professional misconduct, it cause petitioner, (1) NOT, to be able to hire an another trial counsel, who were not burdened by an actual conflict of interest which adversely affected counsel's performance Mitchell v. State, 989 S.W. 2d 747,748 (Tex. Crim. App.1999). (2) Due to trial court erred in not disclose the professional misconduct, cause petitioner, Not to accept the plea bargain, which the State had offer petitioner, a lesser offense, which would have been "Murdered". Obviously, Petitioner, would have benefitted from the charge on murder, with a punishment range of 5 to 99 years, as opposed to the automatic life sentence for capital murder. Even if Petitioner, had accepted the plea bargain, which were murder charge which would have been a

lesser offense of capital murder, the time petitioner, would have been required to serve before becoming eligible for parole would have been less than the 40 calendar years mandated for a capital life sentence. Tex. Code of Crim. Procedure, Art. 42.18, Section 8 (b)(2).

U.S. Const. amend VI, constitutionally entitles one charged with a crime to the assistance of counsel, compliance with this constitutional mandate is an essential jurisdictional prerequisite to a federal court's authority to deprive an accused of his life or liberty. When this right is properly waived, the assistance of counsel is no longer a necessary element of the court's jurisdiction to proceed to conviction and sentence, If the accused, however, is not represented by competent counsel, and has not competently and intelligently waived his constitutional right, U.S. Const. amend VI stands as a jurisdictional bar to a valid conviction and sentence depriving petitioner of his life or his liberty. Johnson v. Zerbst, 304 U.S. 458.

Direct Collateral Review Creates Path Around AEDPA Hurdles for State Prisoners Seeking Postconviction Relief. The DRC, Court gets its jurisdiction from 28 U.S. C. § 1257 (a), the same as a direct appeal taken to the Supreme Court from a state court judgment. This distinction is important because it removes DRC, from the realm of habeas corpus and all of its restrictions.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Willa F. Ford

Date: March 3, 2025