ORIGINAL

NO. 25-5094

IN THE

SUPREME COURT OF THE UNITED STATES

AWAD MUSTAFA
PETITIONER,
V.
HTS SERVICES, INC., ET AL.
RESPONDENTS

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

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1- Whether the state's trial court has jurisdiction to hear this case with its federal claims, and whether the trial court's final judgment to dismiss with prejudice, all claims against all defendants for lack of jurisdiction, is in violation of the Due Process Clause and the Supremacy Clause.

2- Whether the trial court's Order to Grant TWC's plea to the jurisdiction, without offering the petitioner an opportunity to (at least hear) the plea or to respond to it in a Live Hearing, is in violation of the Due Process Clause, and the Right to be Heard.

3- Whether the Texas Workforce Commission's clear procedural errors violated the Due Process Clause, and the Right to be Heard, when the Texas Workforce Commission (TWC) (reversed the decision) which qualified the petitioner to receive unemployment benefits, before and without processing the (already filed) with the Texas Workforce Commission, the employer/ respondent's (HTS) appeal from the qualifying decision.

4- Whether the petitioner is entitled, under the Due Process Clause, to move to disqualify or recuse the impartial, bias and prejudice appeals court's justice(s), and whether the petitioner was deprived by the Texas supreme court from the right to appeal the appealable denied motion.

5- Whether the Texas supreme court's Denials to the direct appeal/ the petition for review, and the motion for rehearing with its federal claims, are in violation of the Supremacy Clause.

PARTIES TO THE PROCEEDING

The petitioner is Awad Mustafa, a Pro Se litigant

The Respondents are HTS Services, Inc., Tarek Morsi, Misel Repak, Mahmoud Hassan, Shafi Mohamed, Yewande ""WENDY"" Adelaja, Texas Workforce Commision, Bryan Daniel, Aaron S. Demerson, Julian Alvarez, S. Sunday, P. Payne, and Ofelia De Leon.

HTS Services, Inc. is a corporate/ shipping company with a place of business in Houston, Texas.

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PETITIONER'S CORPORATE DISCLOSURE

Pursuant to Rule 7.1 of the Federal Rules of Civil Procedure. The petitioner hereby, and to the best of my knowledge, advises the Court that HTS Services, Inc. is a shipping company in Houston, Texas, owned by respondent Tarek Morsi and/ or family members. HTS Services, Inc., does not have a parent corporation. No publicly held corporation owns 10% or more of HTS Services, Inc., stock.

Dated July 5, 2025.

RESPECTFULLY SUBMITTED
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DIRECTLY RELATED PROCEEDING

This case arises from the following proceedings;
The Supreme Court of Texas

MUSTAFA V. HTS SERV., INC. NO. 24-0630 (Petition for review was denied on 10/11/2024, and a motion for rehearing was denied on December 6, 2024)

First District Court of Appeals, Houston, Texas. No. 01-22-00878- CV. Awad O. Mustafa v. Texas Workforce Commission, Brian Daniel, Aaron S Demerson, Julian Alvarez, S. Sunday, P. Payne, Ofelia De Leon, HTS Services, Inc., Tarek Morsi, Misel Repak, Mahmoud Hassan, Shafi Mohamed, and Yewande ""WENDY"" Adelaja., No. 01-2022-00878-CV. (Opinion and judgment issued on June 18, 2024)

The 80th Judicial District Court of Harris County, Texas
Awad O. Mustafa v. Texas Workforce Commission, Brian Daniel, Aaron S. Demerson, Julian Alvarez, S. Sunday, P. Payne, Ofelia De Leon, HTS Services, Inc., Tarek Morsi, Misel Repak, Mahmoud Hassan, Shafi Mohamed, and Yewande ``Wendy''' Adelaja, No. 2022 - 54542, (Two (2) interlocutory orders issued on November 15, 2022, and final judgment was issued on December 14, 2022)

OPINIONS BELOW

The Texas supreme court order denying Mr. Mustafa's petition for review No. 24-0630 is not reported. The Texas supreme court order denying Mr. Mustafa's motion for rehearing No. 24-0630 is not reported. The Texas' 1st district court of appeals judgment and opinion in 01-22-00878-CV is not reported. The 80th district court of Harris County, Texas' two (2) orders and the final judgment No. 2022-54542 are not reported.

JURISDICTION

The Texas supreme court denied a motion for rehearing on December 6, 2024, and a petition for review on October 11, 2024. The court of appeals judgment was entered on June 18, 2024. The trial court's final judgment was entered December 14, 2022, and two orders on November 15, 2022. Petitioner invokes this Court's jurisdiction under 28 U.S.C. § 1254 (1). Texas appellate procedure leaves no available right to appeal, *See Powell v. Texas* 392 U.S. 514 (1968)

CONSTITUTIONAL PROVISIONS INVOLVED

1. The pertinent 6th Amendment to the United States Constitution provision is Article VI, Clause 2, which provides;

> "'*This Constitution, and the Laws of the United which shall be Made in pursuance thereof, and all Treaties made, or shall be Made, under the authority of the United States , shall be the Supr--me law of the land; and the judges in every State shall be bound*

Thereby, any Thing in the Constitution or laws of any State to the Contrary notwithstanding."

2. The pertinent 14th amendment to the United States Constitution provision is U. S. CONST. Article XIV, § 1, which provides;

> "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.""

STATUTORY INVOLVED PROVISIONS

1. The pertinent United States Statute, Civil Action for Deprivation of Right, provision is 42 U.S.C. § 1983, which provides in part;

> *"Every person who, under color of any statute, ordinance, regulat-ion, custom or usage, of any State or other State territory ot the District of Columbia, subjects, or cause to be subjected, any citi-zen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileged, or immunities Secured by the Constitution or laws, shall be liable to the party injured in an action at law, suit in equity, or other proper procee-ding for redress, Except.....".*

2. The pertinent statutory provisions are the Civil Rights Act of 1964, which provides in most;

> *'"To enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injective Relief against discrimination in public accommodations, to autho--rize the attorney General to institute suits to protect constit--utional rights in public facilities and public education, to extend The Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission Equal Employment Opportunity, and for other purposes.....That this Act may be cited as the "Civil Rights Act of 1964"'.*

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INTRODUCTION

When faced with extraordinary circumstances that test the bounds of Due– Process, this Court has recognized the importance of intervening. The fourteenth Amendment's Due Process Clause, protects people from having their life, liberty, or property taken away from them without due process of law. It requires the states' governments, counties, cities and towns to follow certain procedure before taking away a person's right (.....nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny any person within its jurisdiction the equal protection of the law.).

The right of any person to work without being discriminated against is established in Title VII, in the Civil Rights Act of 1964. The United States set clear laws to guide the persons who were subjected to discrimination or wrongful terminations for unrelated to work or performance reasons, on how to file complaints, claims for unemployment benefits, or both. The provisions of 5 U.S.C. chapter 8505, along with the provision in 42 U.S.C. Chapter 7, subchapter III, shows that the states are paid, to pay each qualified individual, unemployment benefits. The decisions to deny or the taking away of those federal benefits after approval shall be made by Due Process of law, See *Sherbert v. Verner,* 374 U.S. 398 (1963), See *Thomas v. Review Board of the Indiana Employment Security Div.,* 450 U.S. 707 (1981), See *Hobbie v. Unemployment Appeals Comm'n,* 480 U.S. 136 (1987).

STATEMENT

1. STATUTORY BACKGROUND

STATE COURTS CIVIL RIGHTS ACT CLAIMS JURISDICTION

The U.S. Congress gave the Equal Employment Opportunity Commission (EEOC) a broad jurisdiction to enforce and solve the employment discrimination complaints, brought under Title VI, in the Civil Rights Act of 1964, except in some cases, like in the incident involved in this petition for a writ of certiorari, because the (EEOC) does not have jurisdiction to enforce Title VI in the Civil rights Act of 1964 on employers with less than (15) fifteen employees, this fact was shown to the states trial court's judge

in a live hearing, *See Appendix n,* 18 : 22-25. & 19 : 1-16. *Id.*. See *also* 42 U.S.C. § 2000 (b), See *EEOC v. Commercial Office Products. Co.,* 486 U.S. 107 (1998). Fortunately, the Civil Rights Act of 1964 contains its own jurisdiction...conferring provisions, which reads "Each United States district court and each United States court of a place subject to the jurisdiction of the United States shall have jurisdiction of actions brought under this subchapter.", 42 U.S. § 2000 e-5 (f) (3).

2. STATE LAW EMPLOYMENT JURISDICTION

The state of Texas' law employment appeal jurisdiction was demonstrated and established in the trial court by the judge herself, in a live hearing on November 14, 2022. In a direct question by the state´s trial court's judge to the petitioner on whether the petition with the court is an appeal from respondent TWC´s final decision, the petitioner stated that it is an appeal, in part, *See Appendix n, at* 14: 7-11. The trial court judge's conclusion at the end of the hearing relied on the original and amended pleadings, with disregard to the judicial admissions of the founded facts by the judge´s direct question. The Texas Labor Code § 212. 201 (a) provides: (A party aggrieved by a final decision of the commission may obtain a judicial review of the decision by bringing an action in a court of competent jurisdiction for review of the decision against the commission on or after the date on which the decision is final, and not later than 14th day after that date. (b) Each party to the proceeding before the commission must be made a defendant under this subchapter.), *Appendix l.*

3. FACTUAL BACKGROUND

A. APPROVED BENEFITS; The petitioner was discriminated against while working for respondent/ employer HTS Services, Inc., and was wrongfully terminated. The petitioner filed a claim for unemployment benefits with respondent Texas work commission on 07/04/2021. The petitioner was qualified to receive the benefits by a decision made on July 28, 2021, by respondent/ examiner Ofelia De Leon, *See Appendix j, See Texas Labor Code §204.025 (a).* The Respondent/ employer HtS Services, Inc. filed and submitted an appeal on 08/04/ 2021 with respondent Texas Workforce commission, *See Appendix m-4., See Texas Labor Code § 204.025 (b), See Appendix n at 11: 9-13.* The petitioner contacted and submitted a pre charge form with the EEOC, and informed over the telephone that the EEOC does not have jurisdiction over employers with less than (15) employees, *See appendix r,* the trial court's judge was clearly informed of this fact in the live hearing, *See Appendix n, at* 18 : 22-25 & 19 : 1-16. *Id.*

B. STATE OFFICIALS ACTED WITHOUT AUTHORITY;

1. Each appealed decision in the unemployment benefits claims moves to the Appeals Tribunal, a higher authority than the respondent/ examiner Ofelia de Leon's, who becomes without authority over the claim, after her decision is appealed, *See, the Texas Labor Code § 204.025 (b), and § 212.102 Id.* This Court held "'...will not bar.....official from acting as a

decision maker, he should not have participated in making the decision under review", *See Goldberg v. Kelly,* 397 U.S. 271 (1970)

2. The respondent/ examiner, while acting with a complete knowledge and disregard to the filed respondent/ employer's appeal in the System, *See Appendix m-4,* issued a reversing decision on 08/05/2021, *See Appendix k,* which disqualified the petitioner from the continuance of the already started payments of the unemployment benefits. The petitioner appeal was for deprivation from Due Process., *See Appendix t..* "A pre termination hearing is necessary"' See *Goldberg v. kelly,* 397 U.S/ 266-271 (1970)

C. DEPRIVATION FROM RIGHTS BY STATE OFFICIALS ; No respondent ever, at any stage of the claim proceedings, did inform the petitioner, neither verbally nor in writing, that the respondent/ employer had filed an appeal until 11/13/2022, more than (15) fifteen months after the appeal was filed on 08/04/2021, and that was when respondent Texas Workforce Commission filed with the trial court its (214) two hundred and fourteen pages Initial Disclosures (reduced to 6 pages herein as appendix m), *See appendix m 1-6.* This illegal concealment deprived the petitioner from due process and equality under the law, because the petitioner appealed the disqualifying decision, *See appendix t , See appendix k.* The petitioner, and unconstitutionally, underwent (2) two appeals tribunal hearings with stopped payments of unemployment benefits, See appendix q 1-2. (Had that the respondent/ employer's appeal was processed by

respondent Texas Workforce Commission), the continuance of the approved unemployment payments, is guaranteed by Texas Labor Code's provision in § 212.004 (b) (1) (2) (3) (4) (c) (2) (A) (B) & (C)., *See also 5 U.S.C Chapter 8505.* Petitioner filed a second appeal from the appeal tribunal's decision to the Commission Appeals, which consisted of respondents/ Commissioners Brian Daniel, Aaron S. Demerson, and Julian Alvarez, but the erroneous decision in *appendix k,* was affirmed again, The respondent filed a petition with the trial court pursuant to § 212, subchapter E, of the Texas Labor Code. Petitioner also styled as defendants, the officials who took part in the violations to his civil rights, and in the concealment of the filed appeal, See 42 U. S. C. § 1983, state courts has jurisdiction to hear claims brought under § 1983, this court has held that *("*the Alabama Department of Labor had effectively created a bureaucratic black hole, where applicants' appeals languished without hearings or were rejected without explanations.'"), *See Williams v. Reed,* 604 U.S.____(2025),

3. PROCEDURAL BACKGROUND

A. DEPRIVATION FROM RIGHT TO BE HEARD IN A LIVE HEARING;

The trial court, and in the live hearing on 11/14/2022, granted the Texas state's Attorney General a plea to the jurisdiction, without having the plea fully submitted or the plea being available for the judge to view it in the court's system. The judge granted the plea to the jurisdiction without having the plea presented, and unconstitutionally, without offering

the petitioner the opportunity to respond or at least hear what the plea is about, *See appendix n, at 18* : 3 - 21., *See appendix e.* This court has held that " A fundamental requirement of due processing any proceeding that is to accorded finality with a notice reasonably calculated, under circumstances, to apprise interested parties of pendency of the action and afford them the opportunity to respond and present their objections.", *See Mullane v. Central Hanover Bank & Co. 339 U.S. 306 (1950).* The state trial court's judge immunized and created a shield for the respondents Texas officials from the suit, and used the bench to make them '"happy"", as the assistant Attorney General unlawfully hinted to the judge in the live hearing, *See Appendix n, at* 23 : 10-23, & 24 : 1- 8. *Id. See also Williams v. Reed* 604 U.S._____(2025).

REASONS FOR GRANTING THE PETITION

I. THE DECISION BELOW CONFLICTS WITH DECISIONS OF TEXAS SUPREME COURT AND OTHER STATES' SUPREME COURTS

A. In the opinion below the court of appeals held that, ("In summary we conclude that the trial court lacked subject matter jurisdiction over Mustafa's claims against HTS and TWC parties. The trial court did not err in granting HTS' and TWC's pleas to the jurisdiction and dismissing Mustafa's claims against them accordingly, we overrule Mustafa's issues."), *See Appendix b-2 at 19.* The court held in Conclusion, (We affirm the trial court's Dece 14, 2022

final judgment, incorporating its November 15, 2022 orders granting the HTS parties plea to the jurisdiction and motion for summary judgment and the TWC's parties' plea to the jurisdiction, and dismissing Mustafa's claims with prejudice.), *See Appendix b-2, at 20.*

The decision below conflicts with the court of appeals' own state (Texas) supreme court decisions, and other states supreme courts' decisions on assertion of fact(s), and judicial admissions, made by a party, in a live proceedings. The Texas supreme court has held that ("assertion of fact not [pled] in the alternative, in the live pleadings of a party are regarded as formal judicial admissions."), *See Holly Holy Cross Church of God in Christ v. Wolf,* 44 S.W. 3d 562, 568 (Tex. 2001), and held that ("Judicial admissions are assertions of fact, not pled in the alternative, in the live pleading of a party. There is no doubt that the second amended petition was plaintiff;s live pleadings here.""), *See Lyons v. Lindsay Morden claims Mgmt,* 985 S.W. 2d 86 (Tex. App. 1999), Cited *Houston First American Savings v. Musik* 650 S.W. 2d 764, 767 (Tex. 1983). The trial court's judge asked the petitioner a direct question if the petition is an appeal from unemployment decision, and the petitioner answered and said part of it is an appeal, *see Appendix n at,* 14 : 7-11. The trial court's judge, and after hearing the judicial admissions, the demonstrated jurisdiction for the employment appeal, addressed the respondents HTS Services, Inc. attorney, and said ("Okay. So then that, we would handle the summary judgment portion of this hearing, I guess, because he

just said, yes, part of this is an appeal."), and the attorney for respondent HTS Services, Inc., Mr. Moll agreed by saying ("and that's fine your honor"), *See Appendix n, at* 14 : 7-11. The impartial judge recessed for minutes (not weeks), and came back to conclude that ("So I took a look at plaintiff's pleadings as well as amended pleadings again, and I don't find that this is an appeal from a decision. It looks like it's solely a lawsuit against TWC and among others, so in that respect, I grant Defendants' plea to the jurisdiction."'). The trial court's decision does not square, and conflicts with other States supreme and higher courts' decisions, *See State v. Saporen,* 205 Minn. 358, 285 N.W. 898 (1968), *See Ruhala v. Roby,* 379 Mich. 102, 150 N.W 2d. 146 (1967), *see also People v. Johnson,* 68 Cal. 2d. 648, 68 Cal. rptr. 599, 441 P. 2d 111 (1968). The trial court's conclusion does not square with the provisions in Texas Labor Code § 212 Subchapter E, the Civil Rights Act of 1964, and it clearly conflicts with the provision in 42 U.S.C. § 2000 e-5 (f) (3), and it is made in violation of the Supremacy Clause.

B. *APPLYING MICHIGAN V. LONG STANDARD ON* STATE LAW

In *Michigan v. Long*, this Court has held that (There is nothing unfair about requiring a plain statement of an independent state ground in this case. Even if we were to rest our decision on an evaluation of the state law relevant to Long's claim, as we have done in the past, our understanding of Michigan law would also result in our finding that we have jurisdiction to decide this case.)., *See Michigan v. Long,* 463 U.S. 1032 (1983). As shown in the

"STATEMENT" paragraphs 1, 2, & 3 above, the procedural errors and erroneous decisions which were made by the respondents without authority, *See appendices l, & k,* are in violation of the constitutional rights of Due Process, the right to be Heard, and the equality under the law. This Court may apply the *Michigan v. Long* standard, to find that the erroneously applied procedure, and the unconstitutional enforcement of the wrong Texas laws by the respondents TWC and the Texas' officials, resulted in harmful violations of the Due Process Clause, and the Right to be Heard. The Court of appeals erred when it affirmed the trial court's decision to dismiss with prejudice the employment discrimination claims because of the petitioner did not pursue charges with EEOC, after the Pre Charge was in file, and the facts that EEOC, and Texas Commission on Human Rights TCHR do not have jurisdiction over employers with less than 15 employees, *See Appendix n,* 18 : 22-25. & 19 : 1-16. *Id.* This Court has noted that "'[r]eactivation of state proceedings after the conclusion of federal proceedings serves [a] useful function.'". Title VII does not give EEOC jurisdiction to enforce the Act against employers of fewer than 15 employees.", *See EEOC v. Commercial Office Products Co.,* 486 U.S. , at 119 n.5.

C. ADVISORY DECISION WITHOUT JURISDICTION ;

In the opinion below, the court of appeals affirmed in all respects, and ruled that the trial court did not err, incorporating its orders granting the respondents pleas to the jurisdiction, that the court lacks subject matter jurisdiction over the claims. The trial court's judge issued a final judgment on

December 14, 2022, one month after the judge ordered on November 15, 2022., that the court lacks subject matter jurisdiction over the claims., The case was appealed on November 21, 2022, and was sent to the court of Appeals on November 28, 2022. The trial court's final judgment, in which the judge dismissed all petitioners claims against all respondents, with prejudice, is unconstitutional and was made without jurisdiction, if we hypothetically assume that the trial court lacks subject matter jurisdiction *See United States v. United States Gypsum*, 333 U.S. 346 (1948). This Court has held in many precedents that when a court lacks jurisdiction over a case, any decision by that court regarding any matter in the case is an advisory decision, and that the Constitution does not afford the courts jurisdiction to make advisory decisions, this Court has held that ""[T]he California court advised the petitioner's counsel...informally that it doubted its jurisdiction to render such a determination."' We then vacated the judgment, and remanded, See *Dixon v. Duffy* 344 U.S. at 344 U.S. 145 (1952),

II. THE TEXAS COURT OF APPEALS' OPINION CONFLICTS WITH DECISIONS OF ITS OWN STATE'S TEXAS SUPREME COURT

A. RECOGNIZED AND ACCEPTED JUDICIAL ADMISSIONS BY THE JUDGE;

In the opinion below, the court of appeals held that the trial court did not err, and that the court of appeals decision to overrule the issues presented is conflicts with the Texas supreme court's decisions. The court of appeals conflicted with its own state's supreme court, and with other supreme courts

courts in the U.S., regarding assertion of facts, and judicial admissions, by a party, in live proceedings. The Texas supreme court has held that ("assertion of fact not [pled] in the alternative, in the live pleadings of a party are regarded as formal judicial admissions."), *Holy Cross Church of God in Christ v. Wolf,* 44 S.W. 3d 562, 568 (Tex. 2001), Texas supreme court held that ("Judicial admissions are assertions of fact, not pled in the alternative, in the live pleadings of a party. There is no question that the second amended petition was plaintiff's live pleading here.""), *See, Lyons v. Lindsey Morden claims Mgmt* 985 S.W. 2d 86 (Tex. App. 1999), Cited *Houston First American Savings v. Musik* 650 S.W. 2d 764, 767 (Tex. 1983). The opinion below affirmed the trial court's wrong decisions, in defiance of Texas supreme court's decisions. The decision below creates a wrong precedent and a split in Texas courts regarding an important and a significant part of both civil and criminal procedures..

III. THE OPINION BELOW CONFLICTS WITH RELEVANT DECISIONS OF THIS COURT

A. THE DECISION BELOW CREATED A SHIELD AND AN IMPERMISSIBLE IMMUNITY TO STATE OFFICIALS

1- The decision below conflicts with this court's precedents, and is in violation of the Supremacy Clause. In this part (1-), the trial court judge's conclusion and ruling at the end of the live hearing does not square with the judge's own earlier findings, *See Appendix n, at* 14 : 7-11. The court of appeals affirmed in the opinion below, and unconstitutionally participated with the trial court in creating an impermissible shield to the respondents Texas officials from being sued for civil rights violations, *See Felder v. Casey,* 487 U.S.

143 (1988). The trial court's judge concluded that ("after reviewing the original and amended pleadings, it.....does not look like an appeal from a final decision, and it looks like a suit against TWC among others."), *See Appendix n,* 20 : 15-20, after the court found and ruled that there is an appeal, *See Appendix n,* 14 : 7-11. This Court has held that ("the Alabama Department of Labor had effectively created a bureaucratic black hole, where applicants' appeals languished without hearings or were rejected without explanations.""). ("The Supreme Court held that "the ....court implication of the court's opinion .. created an impermissible immunity shield for state officials against .....claims.""), *See Williams v. Reed,* 604 U.S.____(2025).

2- In this part (2-), the court of appeals held that (Sovereign immunity deprives a trial court of subject matter jurisdiction over lawsuits against the state, its agencies, and their officials unless the state consents,.) citing *Tex Dep't of Parks & Wildlife v. Miranda,* 133 S.W. 3d 217, 224 (Tex. 2004)., *See Appendix b-2, at 13. (*Mustafa's Claims Against TWC Parties). This Court can easily find that, the author of the wrong opinion below, either does not understand that she is applying the conflicting state law on federal claims, or the sole author of the wrong opinion is intentionally applying the wrong state law on the right federal claims of violations to the petitioner's due process right, and the right to be heard. The evidence here shows both disastrous errors occurred. This Court held in *Williams v. Reed,* that, ("As the Court explained, States possesses "no authority to override"' Congress's

"'decision to Subject state's officials" to liability for violations of federal rights.") quoting *Felder v. Casey,* 487 U.S. 143 (1983). The principal above bars any state's rule or "ruling" immunizing state officials from a "'particular species"' of federal claims, even if the immunity rule or "ruling" is "'cloaked in jurisdictional garb.", *See Haywood v. Drown,* 556 U.S. 739, 742 (2009), and that ([f]ederal law must prevail when Congress validly enacts a statute that expressly supersedes state law, or when the state law conflicts with a federal statute."), *See Haywood ,* 556 U.S. at 764 (THOMAS, J., dissenting) (Citations omitted). The opinion below, in *Appendix b-2, at 13,* acknowledged that {Mustafa's pleadings alleged that the TWC deprived him from constitutional due process....). The wrong opinion below went into a lengthy and an empty discussion from page 13, to page 19, which marks the end of the wrong opinion below. The last Page 20 contains the erroneous conclusion., *Appendix b-2.* The opinion below is packed with tens of irrelevant citations of state rules, laws and cases, to which the above cited decisions and opinions of this Court's precedents, are sufficient to overrule and pre empty.

B. VIOLATIONS OF THE SUPREMACY AND THE DECISION PROCESS CLAUSES

This Court has held that "'A fundamental requirement of due processing any proceeding that is to be accorded finality with a notice reasonably calculated, under all circumstances, to apprise interested parties of pendency of the action

and afford them the opportunity to respond and present their objections."", *See Mullane v. Central Hanover Bank & Co.* 339 U.S. 306 (1950). In the opinion below, the court of appeals affirmed in all respects, even though the trial court's judge did not offer the petitioner the opportunity to be heard, or to fairly present the facts in his claims of Due Process violations, or the employment discrimination claims. This court held that ("a procedural due process claim is not complete when the deprivation occurs. Rather, the claim is complete Only when the state fails to provide due process."), *See Reed v. Goetz,* 598 U.S. 230, 236 (2023) (quotations marks and citation omitted), *See Alvin v. Suzuki,* 227 F.3d 107, 116 (CA3 2000).

The trial court's judge denied the petitioner the right to be heard many times during the live hearing, and limited his ability to present his federal claims, by saying ("let me stop you there. So the...and I understand that you feel that you would have a claim, but this court cannot hear that."), *Please See Appendix n, at* 16 : 15-18. The legendary veteran, Justice Clarence Thomas, and while dissenting in Williams v, Reed, agreed that, ("the only potential constraint that the Constitution places on State's jurisdictional discretion is the possibility that a federal statute may preempt state law.). In the opinion below, the court of appeals erred by affirming the trial court's decisions to dismiss the petitioner's claims with prejudice for lack of subject matter jurisdiction, and by citing tens of Texas state cases in support of its conflicting opinion with the Supremacy clause, *See* (JURISDICTIONAL STATUTE) the

pre-established jurisdiction for state courts to hear claims brought under the Civil rights act of 1964, after acknowledging that by stating, ("in his amended petition, Mustafa asserted employment discrimination claims against HTS...., in violation of Title VII of the Civil Rights Act of 1964."), Please *See Appendix b-2, at 9-13.*

The requested recused or disqualified three times during the appeal;s proceedings, Justice Amparo Guerra who solely authored the opinion, has erroneously applied every wrong provision in the state of Texas law, on a federal claim, that should be decided by the federal provisions of the civil rights Act of 1964, and by applying the EEOC's procedure. The wrong opinion, and in the pages from 9-13, *See Appendix b-2,* cited every case, that is relevant to the local cases filled with the Texas Commission on Human Rights (TCHR), but not a single federal case that is relevant to the petitioner's federal claims, with the federal commission, the EEOC.

The Supremacy Clause makes the ("'Constitution and the laws of the United States which shall be made in pursuance thereof....the Supreme law of the Land"), Art. VI, cl. 2. This court held that ("[f]ederal law must prevail when Congress validly enacts a statute that expressly supersedes state law, or when state law conflicts with a federal statute."), *See Haywood v. Drown,* 556 U.S. 764 (2009). The Supreme Court of the United States rejected a Connecticut state court proposition that it is "at liberty" to decline cognizance to enforce rights arising under [federal] acts, See *Mondou v. New York, N.H &*

H. R. Co. 223 U.S. 1 (1912). See *Claim. Laflin v. Houseman,* 93 U.S. 130 (1876). See, *Appendix n, at 18 : 22.-25 & 19 : 1-16., See C., the invalid excuse below...,*

C. THE INVALID EXCUSE OF TIME-BARRED CLAIMS

A. The opinion below is wrong, because it affirms the trial court's decision with its invalid excuse, to Hold the court back from hearing the employment discrimination claims, that; ("'And one of the main reasons is because you're time–barred. There's a time in which you're...."), *See Appendix n, at* 16 : 15–25, and at 17 : 1. *Id.* This Court has held that (""Filing a timely charge of discrimination with the EEOC is not a jurisdictional prerequisite to suit in ..... court, but a requir- -ement that, like a statute of limitations, is subject to waiver, estoppel, and equitable tolling. The structure of Title VII, the Congressional policy underlying it, and the reasoning of this court's prior cases all lead to this conclusion. Pp. 392–398."), *See ZIPES v. TRANS WORLD AIRLINES, INC.* 455 U.S. 385 (1982). The trial court's judge Order to Grant the respondent's HTS Services, Inc., motion for summary judgment, *Appendix d,* is conflicting with the this Court's ruling and decision in *Claim laflin v. Houseman,* 93, U.S. 130, 136 (1876) ("[I]f executive jurisdiction be neither express nor implied, the state courts have concurrent jurisdiction whenever, by their own constitution, they are competent to take it.""), *See Texas Constitution Article 1, § 19, 29. See Charles Dowd Box Co., v. Courtney,* 368 U.S. 502, 507 (1962) ("We start with the premise that nothing in the concept of our federal system prevents state courts from enforcing rights created by federal law."). The

petitioner submitted documents in his Notice of Intent to Use Equal Pay Act as Evidence and Support, *See Appendix o.* The petitioner filled the online pre-charging form with the EEOC, then received a response from EEOC, to the submitted request for assistance regarding the employment discrimination complaint on August 6, 2021, *See Appendix r.*. The respondent received a telephone call from EEOC, in which the EEOC's investigator informed the petitioner that the EEOC does not have jurisdiction on the respondent employer because respondent HTS Services, Inc. did not have fifteen employees before, or when the employment discrimination incident had happened. The opinion below conflicts with this Court's decision, in which Justice Anthony Kennedy accepted the EEOC's position that ("filing would be considered a "charge"" if it could be reasonably construed as request for the agency to take remedial action to protect the employee's rights or otherwise settle a dispute between the employer and the employee."), *See Federal Express Corporation v. Holowicki* 552 U.S. 389 (2008). The trial court's invalid excuse of time-barred claim to decline hearing the case. with its federal claims is a dual violation of the Due Process Clause and of the Supremacy Clause.

IV. THE RECUSAL AND/ OR DISQUALIFICATION OF JUSTICE GUERRA ENSURES THE CIVIL SYSTEM'S INTEGRITY

A THE SIGNIFICANT QUESTION OF RECUSAL;

The question of recusal at any level ""is very significant concern for individual litigants, the particular judge [or justice] involved, the public at large,

and the administration of justice" At a minimum, the American public expects judges to be "fair and independent""".....[and able] to resolve disputes objectively by applying the relevant law to the available facts."", *See* VIRELLI, *supra note 7,* at xii–xiii. Two (2) motions to reconsider the denied two motions to recuse or disqualify were filed, and they were denied, *See* Tex. R. App. P., Rule 16.3 (a),(b), *See Appendices f, & g.* The denial of a motion to recuse or disqualify is appealable under Texas law, See Tex. R. App. P. 16.3(c). Petitions filed with the Supreme Court of Texas seeking a review after a denied motion to recuse or to disqualify a justice under Rule 16.3(c) of the Tex. R. App. P., are considered direct appeals, and the Texas supreme court is reviewing them regularly, This court held "'[T]he Due Process Clause entitles a person to an impartial and disinterested tribunal in both civil and criminal cases.", *See Marshall v. Jerrico, Inc.,* 446 U.S. 238, 242 (1980). Texas supreme court denial to the petition for review and motion for rehearing violated the Supremacy Clause, *See Mondou v. New York, N.H., & N.H. Co,* 223, U.S. 1 (1912)

B. DUE PROCESS AND THE RECUSAL OF JUSTICE GUERRA;

The Texas Supreme Court denied the petition for review/ direct appeal from the two (2) motions to recuse the justices of the appeals court, *See Appendix a 1-2.* The petitioner showed in his motion to disqualify or recuse a justice (Guerra), where in the internet any person may view and hear Justice Amparo Guerra's misconduct. The made very improper statements in a publicly viewed media interview, *See & Watch at; https:// vimeo.com/527299145.* In the Interview, Justice Guerra (unlawfully) set her own rules of appellate procedure,

as to which every "Appeal Brief "" will be accepted and worth more than just being read by the justice. The discovery of the confidence shaking statements in her ability to be fair, necessitated the moving for her recusal or disqualification, three times. Justice Guerra is the sole and the only justice who authored the entire Memorandum Opinion and judgment.

C- INTENTIONAL MISCONDUCT ; In the opinion below, the court of appeals held (;;Texas Labor Code Section 212.201 provides, in relevant part; (a) A party aggrieved by a final decision of the commission may obtain a judicial review of the decision.....in a court of competent jurisdiction for review against the commission on or after the date on which the decision is final, and not later than the 14th day after that day."), *See Appendix b-2 at,* 14. With this deliberate act of deception, and the intentional false writing of the law to obstruct justice and retaliate, the impartial justice concluded that ("....decision was mailed to parties on August 2, 2022. The commission letter stated that the last day to timely file an 'appeal' was August 16, 2022. Mustafa did not file his 'petition' until August 30, 2022. Having failed to meet the jurisdictional requirements of Section 212.201, Mustafa was precluded from seeking Judicial review of TWC decision."), *See Appendix b-2, at* 16. This Court concluded in *Michigan v. Long* that this Court does not find it unfair to look into (States) Michigan law to decide a case. The Texas Unemployment Compensation Act (TUCA), is a part of Texas Labor Code. '(Section 212.153)" of the (TUCA) provides that the

commission's final decision becomes final after 14 days from the mailing date on August 2, 2022, unless within such 14 days the commission reopen or a party files a written motion for rehearing. *See Appendix I-2, (commission's final decision).* Now, Chapter 212, Subchapter E, of the (TUCA), provides ("a party aggrieved by a final decision of the commission may obtain judicial review of the decision by bringing an action against the commission in a court of competent jurisdiction.....between the 15th and the 28th day after the date of the commission decision."), *See Appendix I-2 (commission's final decision's last paragraph).*

This Court explained that, States possesses no authority to override Congress's decision to subject state's officials to liability for violations of federal rights. Quoting *Felder v. Casey,* 487, U.S. 143 (1988), and this Court explained that the principal above {bars any State rule immunizing state officials from a particular species of federal claims, even if the immunity is cloaked in a jurisdictional garb.), *See Haywood v. Drown,* 556 U.S. 738, 742 (2009). The justice's impartiality prevented the court of appeals from issuing an opinion, that is fair, just, and a worth the *people's* respect

V. TEXAS SUPREME COURT DENIAL TO MOTION FOR REHEARING WITH ITS FEDERAL CLAIMS VIOLATED THE SUPREMACY CLAUSE

The Texas supreme court denied the petition for review, and the motion for rehearing, despite the clearly stated fact on the motion for rehearing that the Texas Supreme Court is respectfully moved to consider, that the petition and the motion for rehearing were brought under Title V, § 2, the Supremacy Clause to

the United States Constitution, and with federal claims. The Texas Supreme Court, while abusing its state law jurisdictional discretion to hear the state's cases, denied the petition, and denied the motion for rehearing with thee federal claims, *See Appendix a 1-2.* This Court has held that (Rhode Island's Supreme Court declined to enforce a federal statute...the decision violated the Supremacy Clause), See *Testa v. Katt,* 330 U.S. 386 (1947), See also *Illinois v. Rodriguez 497* U.S. 177 (1990). Justice Thomas while dissenting quote (The Constitution allows States to hear federal claims in their courts.....), *Haywood v. Drown* U.S. 747 (2009), and Justice Thomas, even while dissenting agreed that, ("The only Potential constraint that the Constitution places on a State's jurisdictional discretion is the possibility that a federal statute may preempt state law."), (THOMAS, J., dissenting) (Citations omitted). This case involves the due process Clause, the Supremacy Clause, the Civil Rights Act of 1964, the Equal Pay Act, the right to be heard, 5 U.S.C. 8505, and 42 U.S.C. § 1983.

THIS CASE IS AN IDEAL VEHICLE FOR RESOLVING QUESTIONS OF CLEAR IMPORTANCE

A. THE COURT OF APPEALS DECISION WILL WRONGLY ALLOW TEXAS GOVERNMENT TO WIN CASES WITHOUT DUE PROCESS IN THAT COURT

The questions presented are important. The court of appeals decision had a significant impact on the petitioner's overall due process and employment discrimination claims, as it will, for the 7-8 million person who are living in the 10 counties, which the court of appeals serve. Due process is "central

element of the judiciary and the constitutional rights of any person who is subject to the jurisdiction of the United states laws. The petitioner's own case demonstrates the impacts of the 1st court of appeals error. This Court has held that, before any decision is made, ("From the standpoint of application of due process Clause, it is immaterial that the deprivation , maybe temporary, and nonfinal"), *See Fuentes v. Shevin,* 407 U.S. 84-86 (1972).The opinion below affirmed that the trial court did not err, when the trial court issued two "interlocutory" orders on 11/ 15/ 2022, and in one order, the judge granted respondent Texas Workforce Commission plea to the jurisdiction without having the plea being presented in court., or offering the petitioner the opportunity to hear the plea or to respond to IT. The petitioner appealed the orders, and the trial court issued the final judgment, a month after, dismissing with prejudice, all petitioner's federal and state claims against all defendants. This Court held that "The Florida and Pennsylvania replevin provisions are invalid under the Fourteenth amendment since they work a deprivation from property without due process of law by depriving the right to a prior opportunity to be heard before the.....are taken from the possessor."" *See Fuentes v. Sevin,* 407 U.S. at 68,.

B. THE 1ST COURT OF APPEALS DECISION WILL IMPACT (THE CORRECT) INTERPRETATION OF THE CIVIL RIGHT ACT OF 1964

The wrong opinion below held (In his amended petition, Mustafa asserted claims against HTS .....it terminated his employment on the basis

of race, color, and national origin., *See Appendix b-2, at* 9, and the erroneous opinion held (Mustafa's employment discrimination claims against "' respondents names omitted" ...also fail. To recover under TCHR, a plaintiff must prove that the defendant falls under within the statutory definition of "'employee"' (citing a relevant state cases), See Appendix b-2, at *9-13.* The Civil Rights Act of 1964, Title VII, did not grant the state's TCHR the authority to enforce the Act, or to have the federal claims merits to be determined by TCHRis statutory. Rather § 705 created the EEOC to enforce the employment discrimination claims brought to the trial court under the Civil rights act of 1964. This erroneous finding resulted in the clear error of affirming the trial court's final judgment, which dismissed with prejudice, all petitioner's all claims against all respondents. This wrong interpretation will serve as a misleading precedent for other courts of appeals. This Court should correct this error now.

C. THE COURT OF APPEALS SPLIT WILL NOT RESOLVE ITSELF OR DEEPEN

1. The Court should address the split between the court of appeals and its own state's, Texas supreme court, regarding the interpretations of federal law, now. The decisions of the two (2) Texas courts are conflicting with other states courts, and with this Court, as it is shown above.

Moreover, In *Awad O. Mustafa v. Texas Workforce Commission,* 01-22-00878-CV, the the court of appeals affirmed the trial court's decision

to reverse its on ruling on judicial admissions and assertion of facts, Deference to trial courts serves important purposes for the federal jurisdictionary by placing the fact-finding function in the trial judges. Who specializes in resolving factual disputes

2.. Appellate fact-finding as at least as likely to introduce error as to correct it. In its earliest articulation of Rule 52 of the Federal Rules of Civil Procedure, this Court explained that "'a [f]inding is clearly erroneous when although there is evidence to support it, the reviewing court on the entire evidence is is left with the definite and firm conviction that a mistake has been committed..'"" *See United States v. United States Gypsum* 333 U.S. 395 (1948). The trial court granted the Texas Attorney General's pla to the jurisdiction, *Appendix d,* which states on its face (the Court heard Defendant's plea to the Jurisdiction, Response to plaintiff's motion for default judgment, and objection to Attorney's fees,. Having considering the pleadings, the moving party and response papers, the arguments of counsel, and all matters presented to the court, the Court Grants the plea to the jurisdiction, and dismisses any and all of plaintiff's requests and all claims against TWC.....for the lack of subject.matter jurisdiction.....). As petitioner requested this Court's urgent urgent intervening, because the 1st district court of Appeals confirmed that (the trial court did not err), *See Appendix b-2, at 19.* The trial court did not hear the plea, and the petitioner was not afforded the opportunity to be heard, or at least

hear the plea being read aloud for the present then, the court reporter, *Please view the entire 26 pages of the live hearing, Appendix n.).*

As this Court has long stated, the clear-error rule stands as a "clear command"" to the appellate courts, including this one, *See Anderson v. City of Bessemer City,* U.S. 470 U.S. (1989).

D. THE COURT SHOULD NOT WAIT FOR THE TEXAS SUPREME COURT TO RESOLVE THE SPLIT

This Court can, and should intervene to correct lower courts' erroneous interpretations of Title VII, of the civil Right Act of 1964, and the concurring conflict the Texas supreme court jurisdictional discretion which the Texas supreme court exercised, in this case, in violation of the Supremacy Clause in the United States Constitution, this Court has held that (The Only potential constraint that the Constitution places on a state's court jurisdiction discretion is the possibility a federal statute may preempt state law.....[f]ederal law must prevail when Congress validly enacts a statute that expressly supersedes state law, or when state law conflicts with a federal statute..), *Haywood v. Drown,,* 556 U.S. 764 (2009) (THOMAS J., dissenting) (Citations omitted). This Court made it clear that Rule 52 of the Fed. R. App. P. makes no distinguish between finding of fact based on live testimony, or based on documentary evidence "which both methods" exist and shown in this petition. Federal Rule of Appellate Procedure 52,, amended in 1985, states in part ; (Thus, appellate courts must let stand all indians -whether based on live testimony, depositions, documentary

evidence or otherwise–unless they are clearly erroneous.), *See Standard v. Swint, 456 U.S. 237,287-288 (1982), See Commissioner v. Duberstein* 363 U.S. 237,287-88 (1960). The trial court's errors are clear in this petition, and the court of appeals is wrong affirmed in all respects.\

The questions presented here can be answered by this court, because the Texas supreme court is unlikely to resolve the split in its own state and between its on districts and trial courts. (The '"final 'Interpretation of the laws"" is the proper and peculiar Province of the courts."' (quoting The Federalist No. 78 p. 525 (J. Cooke ed 1961) (A. Hamilton).

CONCLUSION

This Court should grant a petition for a writ for certiorari, reverse, and remand this case to the trial court for further proceedings.

CERTIFICATE OF SERVICE

I, Awad Mustafa, the pro se petitioner, hereby certify that a true copies of this petition for a writ of certiorari was served upon all attorneys of record via__certified mail_____ on this day_July 5,_____ , 2025.

Awad Mustafa
//s// AWAD MUSTAFA
AWAD MUSTAFA
___07/ 05/ 2025_____