

No. 25-5385 **ORIGINAL**

Supreme Court, U.S.
FILED

JUL 25 2025

OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

Eric Deon Rollins — PETITIONER
(Your Name)

vs.

The State of Texas — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

TEXAS COURT OF CRIMINAL APPEALS

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

PETITION FOR WRIT OF CERTIORARI

Eric Deon Rollins

(Your Name)

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QUESTION(S) PRESENTED

QUESTION No. 1

WHETHER A CRIMINAL DEFENDANT IS DEPRIVED OF HIS CONSTITUTIONAL RIGHTS UNDER THE 4TH AND 14TH AMENDMENTS TO THE UNITED STATES CONSTITUTION TO PRESENT A COMPLETE DEFENSE WHEN THE STATE TRIAL COURT REFUSES TO INSTRUCT THE JURY WHEN SUPPORTED BY EVIDENCE THE AFFIRMATIVE DEFENSE OF NECESSITY IN THE PRESENCE AND SUBMISSION TO THE JURY THE AFFIRMATIVE DEFENSE OF SELF DEFENSE?

QUESTION No. 2

CAN A STATE COURT OF APPEALS INTERPRET A CRIMINAL LAW STATUTE THAT PROVIDES A CRIMINAL DEFENDANT WITH AN AFFIRMATIVE DEFENSE TO EXCLUDE AN AFFIRMATIVE DEFENSE IN THE PRESENCE AND SUBMISSION OF ANOTHER AFFIRMATIVE DEFENSE REQUIRING A CRIMINAL DEFENDANT TO CHOOSE AMONG THE AFFIRMATIVE DEFENSES EVEN THOUGH THEY ARE BOTH SUPPORTED BY THE EVIDENCE AND WHICH WOULD ALLOW THE JURY TO VOTE IN FAVOR OF ONE OF THE AFFIRMATIVE DEFENSES SUBMITTED AS THEIR ROLE IN RESOLVING CONFLICTS?

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: Jose Garza, Criminal District Attorney, Travis County, Texas, 416 West 11th Sttreet, Austin, Texas, 78701

RELATED CASES

There are no related cases in this matter.

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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- ☐ is unpublished.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 B 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 Third Court of Appeals for The State of Texas appears at Appendix A to the petition and is

- ☒ reported at 709 S.W.3d 770; 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 May 07, 2025.
A copy of that decision appears at Appendix B.

☐ A timely petition for rehearing was thereafter denied on the following date: N/A, 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 N/A (date) on N/A (date) in Application No. ____ A ____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

6TH Amendment, United States Constitution: In all criminal prosecutions, the accused shall enjoy the right 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 witnesses against him, to have compulsory process for obtaining witnesses in his favor; and to have the Assistance of Counsel for his defense.

14TH Amendment, United States Constitution: Section 1, 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.

Section 9.22, Texas Penal Code (Necessity): Conduct is justified if the actor reasonably believes the conduct is immediately necessary to avoid imminent harm.

Section 9.31, Texas Penal Code (Self-Defense): Except as provided in Subsection (b), a person is justified in using force against another when and to the degree the actor reasonably believes the force is immediately necessary to protect the actor against the other's use or attempted use of unlawful force.

Section 9.32, Texas Penal Code (Deadly Force in Defense of Person): A person is justified in using deadly force against another, if the actor would be justified in using force against the other under Section 9.31; and when and to the degree the actor reasonably believes the deadly force is immediately necessary to protect the actor against the other's use or attempted use of unlawful deadly force.

STATEMENT OF THE CASE

Upon a plea of not guilty for the alleged offense of Capital Murder, trial commenced before a jury in the 403RD Judicial District Court of Travis County, Texas, in Case No. #D-1DC-24-904003, Styled: The State of Texas v. Eric Deon Rollins. After the presentment of the evidence and Closing Arguments of the parties, the jury returned a General Verdict of guilty, and the trial court sentenced Petitioner to Life without the possibility of parole.

Prior to the case being submitted to the jury, during the Jury Charge conference Petitioner's trial counsel requested an instruction on Self-Defense and the Defense of Necessity.

The trial court allowed the Petitioner's request that the jury be instructed on the matter of Self-Defense, but denied the requested instruction to the jury on the Defense of Necessity.

Petitioner's trial counsel reurged the request that an instruction on the Defense of Necessity be given to the jury, because it was a matter that the Jury Panel was questioned on during Voir Dire, and the Petitioner had testified admitting to have committed the alleged offense, but that he committed the alleged offense because he was under the risk of imminent harm. The request was again denied by the trial court.

In denying the Petitioner's request that the jury be instructed on the Defense of Necessity, the trial court never held that there was no evidence to support that an instruction of the Defense of Necessity be given to the jury, and did not state

or explain why Petitioner was not entitled to an instruction to the jury on the Defense of Necessity. The State never responded to the Petitioner's request that an instruction on the Defense of Necessity be given to the jury.

The Judgment & Sentence of Conviction was appealed to the Third Court of Appeals for The State of Texas in Case No. #03-24-00106-CR, Styled: Eric Deon Rollins v. The State of Texas. In an Published Opinion delivered on March 13, 2025, the court of appeals affirmed the Judgment & Sentence of Conviction. (Appendix A).

Before the court of appeals, Petitioner argued that the trial court erred by failing to include in the Jury Charge an instruction on the Defense of Necessity because Petitioner admitted to committing the charged offense but, that he committed the offense because he was under the risk of imminent harm. It was further argued that the matter had been made an issue during the Voir Dire examination of the Jury Panel.

In affirming the Judgment & Sentence of Conviction, the court of appeals conceded that the Texas Court of Criminal Appeals (TCCA), although there was a split in authority among the intermediate court of appeals regarding whether a Necessity Defense instruction to the jury may be given in a matter case in which the defendant is also given an instruction regarding Self-Defense using Deadly Force, has not addressed whether the presence of a Self-Defense instruction for a case involving Deadly Force bars a Necessity Defense instruction to the jury.

(Appendix A). Agreeing with the various sister appellate courts who has addressed this matter, the court of appeals held that Petitioner was not entitled to an instruction to the jury on the Defense of Necessity when an instruction of Self-Defense had been given to the jury.

Petitioner sought Discretionary Review with the TCCA arguing that the court should grant review because he was deprived of his right to Due Process where the trial court erred in providing a Jury Charge where the jury was not instructed on the Affirmative Defense of Necessity in that the evidence could be construed to show that Petitioner admitted to the charge which made it a requirement.

Notwithstanding, the court of appeals did not address or find that there was no evidence to support an instruction on the Defense of Necessity be given to the jury for consideration, merely sided with the majority of the intermediate court of appeals interpretation that a criminal defendant is not entitled to an instruction on the Defense of Necessity in presence of a Self-Defense instruction, and that it was legislative intent to exclude such. (Appendix A).

The TCCA denied the Petitioner's request for review without explanation on May 07, 2025. (Appendix B)

Before the TCCA Petitioner argued that Petitioner was deprived of right to a fair and impartial trial because the trial court erred in providing a Jury Charge where the jury was not instructed on the affirmative defense of necessity in that the evidence

could be construed to show that Petitioner admitted to the charge which made such an instruction requirement.

REASONS FOR GRANTING THE PETITION

Pursuant to Rule 10 of the Supreme Court Rules, review on a writ of certiorari is not a matter of right, but of judicial discretion, and will be granted only for compelling reasons.

Although neither controlling nor fully measuring the Court's discretion, Rule 10 sets four (4) general basis indicating the character of reasons the Court considers in determining whether to grant certiorari.

A writ of certiorari is rarely granted when the asserted error consists of erroneous factual findings or the misapplication of a properly stated rule of law.

Review should be granted in this case pursuant to Rule 10(c) of the Supreme Court Rules because the State court has decided an important federal question or issue of law in a way that conflicts with the relevant decisions of this Court as delivered in *California v. Trombetta*, 104 S.Ct. 2528 (1984), *Stevenson v. U.S.*, 16 S.Ct. 839 (1896), and *U.S. v. Matthew*, 108 S.Ct. 883 (1988), that provides that a criminal defendant is entitled to an instruction as to any recognized defense for which there exist evidence for a reasonable jury to find in the defendant's favor, regardless of whether the instructions given to the jury on the afforded defenses may be inconsistent.

Review should be granted in this case because there is a compelling reason to determine whether the Petitioner was deprived of his right to a fair and impartial trial and Due Process under the 6TH and 14TH Amendments to the United States Constitution

because the State trial court refused to instruct the jury on the Affirmative Defense of Necessity in the presence of the jury being instructed on the Affirmative Defense of Self-Defense, that deprived Petitioner of the right to present a complete defense.

Review should be granted in this case because there is decisional law in favor of the Petitioner's claim and it would be a fundamental miscarriage of justice for the Court not to grant certiorari in this case and to decide whether a State appellate court can construe and construct a State Statute regarding an Affirmative Defense made available by Statutory law to exclude the entitlement of one Affirmative Defense in the presence of another. Such an approach would tend to conclude that the statutory provisions of the statute itself is unconstitutional as to warrant review by this Court.

Under Texas law, the theory of Defense of Necessity is a confession-and-violence defense requiring the defendant to admit to his otherwise illegal conduct. To be entitled to a defensive instruction for necessity, a defendant must put on evidence that essentially admits to every element of the offense, including the culpable mental state. A defendant is entitled to an instruction on any defensive issue raised by the evidence, whether that evidence is weak or strong, unimpeachable or uncontradicted, and regardless of how the trial court views the credibility of the defense. *Celis v. State*, 416 S.W.3d 419 (Tex.Cr.App. 2013), and *Shaw v. State*, 243 S.W.3d 647 (Tex.Cr.App.

2007). Cf., Ray v. State, 419 S.W.3d 467 (Tex.App.-Waco 2013); a defendant is not entitled to an instruction on Necessity Defense, because he did not admit that he intended to kill the victim or that he shot them with a firearm.

The Defense of Necessity is upon the fact that conduct is justified if, the actor believes the conduct is immediately necessary to avoid imminent harm. Section 9.22 of the Texas Penal Code. The Defense of Self-Defense is that a person is justified using force against another when and to the degree the actor reasonably believes the force is immediately necessary to protect the actor against the other's use or attempted use of unlawful force. Section 9.31(a) of the Texas Penal Code. This is coupled with the fact that a person is justified in using deadly force if he would be justified in using force under Section 9.31, and he reasonably believes that deadly force is immediately necessary to protect the actor against another's use or attempted use of deadly force. Section 9.32 of the Texas Penal Code.

There is nothing contained within the statutory provisions that requires and/or mandates that a defendant is not entitled to a necessity defense in the presence of a self-defense defense.

The statutory provisions does not exclude one defense upon the submission of another.

This Court has interpreted the Due Process Clause of the 14TH Amendment to the United States Constitution to require that criminal defendants are to be afforded a meaningful opportunity

to present a complete defense. In keeping with this principle, this Court ruled that a criminal defendant is entitled to an "affirmative defense instruction" even though they may be inconsistent with one another. *California v. Trombetta*, 104 S.Ct. 2528 (1984). For instance, in *Stevenson v. U.S.*, 16 S.Ct. 839 (1886), this Court reversed a murder conviction arising out of a gunfight. The defendant had requested that the trial court give both a manslaughter and self-defense instruction. This Court held that although that self-defense may be inconsistent with the charged manslaughter, the Court recognized that a full defense necessitated both instructions to the jury. Further, in *U.S. v. Matthew*, 108 S.Ct. 883 (1988), this Court's interpretation of that decision as to establish a rule that a "criminal defendant" is entitled to an instruction as to any recognized defense for which there exist evidence for a reasonable jury to find in his favor. This Court reasoned that the right to present a complete defense would be meaningless were a trial court completely free to ignore that defense without giving instructions on that defense.

The problematic effect of the Petitioner's case, is that he choose to proceed to a trial by jury upon the advise of trial counsel, that he would be entitled to both a Necessity Defense Instruction and a Self-Defense Instruction if he took the stand and testify on his own behalf as to committing the charged offense, which he did... In the realm of this matter, Petitioner would not have elected to testify admitting the

off

charged offense had he known that this was a true assessment of the matter by trial counsel, that also leads to whether he was provided sufficient and adequate information to make an informed choice as to whether or not accept the State's plea offer... However, this appears to be an issue for collateral review purposes. All the same, Petitioner was prevented from presenting a complete defense...

The State appellate court did not render its decision upon the fact that Petitioner did not present any evidence in support of the requested instruction from which the jury could find in his favor. The State appellate court's decision was based on the fact, that the Petitioner was not entitled to a Necessity Defense instruction to the jury in the presences of a Self-Defense instruction being submitted to the jury. Further, the trial court did not provide Petitioner's trial counsel with the opportunity to select which defensive theory he wanted submitted to the jury, after the trial court had refused to submit the Necessity Defense to the jury. As with the decision delivered by the court of appeals, the trial court refusal to instruct the jury on the Defense of Necessity was not based on a finding that Petitioner did not adduce any evidence to support a Necessity Defense for submission of such an instruction to the jury.

There is nothing contained within the statutory provisions of either of the Affirmative Defenses accorded to the Petitioner, is excluded by the submission of one of the defenses to the

The State's highest criminal court has not addressed this matter, and the State intermediate court of appeals should not be allowed to formulate a body of legislative intent to prohibit a criminal defendant from presenting a complete defense. The formulated legislative intent to exclude one affirmative defense in the presence of another when supported by the evidence is constitutionally unsound as interpreted by this Court in Matthew.

It would be a fundamental miscarriage of justice for the Court not to grant review in this case, or remand the case.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

/s/ Eric D. Rollins
Eric Deon Rollins

Date: July 23, 2025