

NO. 25-5642

IN THE SUPREME COURT OF THE UNITED STATES OF AMERICA

OCTOBER TERM 2025

TONNERRIOUS MCGEE

§

PETITIONER

§

VS.

§

§

THE STATE OF TEXAS

§

RESPONDENT

On Petition for a Writ of Certiorari to Fourteenth Court of Appeals, Houston, Texas

PETITION FOR REHEARING
(Under Supreme Court Rule 44.2)

To the Honorable Justices of the Supreme Court of the United States:

Petitioner respectfully petitions for rehearing of this Court's order dated **November 17, 2025**, denying the petition for a writ of certiorari in this case.

This petition is filed pursuant to **Supreme Court Rule 44.2**, which permits rehearing upon a showing of:

1. **Intervening circumstances of a substantial or controlling effect, or**
2. **Other substantial grounds not previously presented.**

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I. INTERVENING CIRCUMSTANCE OF SUBSTANTIAL OR CONTROLLING EFFECT

Since this Court denied certiorari, **The Fourteenth Court of Appeals** issued a **mandate on July 25, 2025**, which materially changed Petitioner's legal status.

A. The Mandate Enforced a Sentence Not Pronounced by the Presiding Judge

The mandate enforces a sentence that the presiding judge **did not orally pronounce** at Petitioner's sentencing hearing on **January 11, 2024**. Under longstanding constitutional principles:

- The defendant has a due process right to be present at sentencing;
- The **oral pronouncement controls** over any written judgment that conflicts with it; and
- A sentence must be imposed by a duly authorized judicial officer, not by mandate or ministerial action.

The mandate **substantively altered the sentence** by imposing terms and conditions that were **never spoken, authorized, or announced** by the presiding judge.

B. This Violation Arose Only After the Denial of Certiorari

The constitutional violation did **not exist** at the time the petition for certiorari was filed or denied. It arose **only after The Fourteenth Court of Appeals** issued its mandate.

Prior to the mandate, Petitioner faced only the sentence as actually imposed by the visiting judge. After the mandate, Petitioner faces a **new, unauthorized, and unconstitutional sentence by the presiding judge.**

This constitutes an **intervening circumstance of controlling importance**, satisfying Rule 44.2.

II. THE NEW VIOLATION RAISES SUBSTANTIAL FEDERAL QUESTIONS NOT PREVIOUSLY PRESENTED

Because the illegal sentence was created **after** the certiorari process concluded, Petitioner could not have raised:

- The Due Process violation (U.S. Const. amends. V & XIV);
- The Sixth Amendment right to be present at sentencing;
- The Eighth Amendment bar against an unlawful, unauthorized sentence;
- The separation-of-powers problem created when a sentence is imposed by mandate instead of the presiding judge.

These constitutional defects are **new** and **substantial** and therefore qualify as grounds “not previously presented” under Rule 44.2.

III. REHEARING IS NECESSARY TO PREVENT A MANIFEST INJUSTICE

The mandate’s enforcement of a sentence never imposed by the sentencing judge results in:

- An unlawful deprivation of liberty,
- A sentence unauthorized by law,
- A violation of core constitutional protections, and
- A breakdown of the judicial process.

Without rehearing, Petitioner will suffer irreparable harm from a sentence that **no judge ever lawfully imposed**.

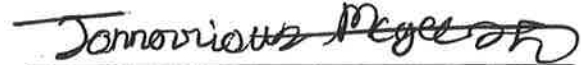
Only this Court can remedy the constitutional defect created after this Court denied certiorari.

IV. CONCLUSION

For the reasons stated above, Petitioner respectfully requests that this Court:

1. **Grant this Petition for Rehearing.**
2. **Vacate the order denying certiorari, and**
3. **Reconsider the petition in light of the new and controlling constitutional violations created by the state court mandate issued after the denial.**

Respectfully submitted,



Tonnerrious J. McGee
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PETITIONER



MANDATE

The Fourteenth Court of Appeals

NO. 14-24-00102-CR

Tonnerrious Jamarcus McGee, Appealed from the 122nd District Court
Appellant of Galveston County. (Trial Court No.
v. 23-CR-0270). Opinion delivered by
Justice Wise. Justices Bridges and Antú
The State of Texas, Appellee also participating.

**TO THE 122ND DISTRICT COURT OF GALVESTON COUNTY,
GREETINGS:**

Before our court of appeals on April 10, 2025, the cause upon appeal to revise or reverse your judgment was determined. Our court of appeals made its order in these words:

This cause was heard on the appellate record. Having considered the record, this court holds that there was no error in the judgment. The court orders the judgment **AFFIRMED**.

We further order this decision certified below for observance.

WHEREFORE, WE COMMAND YOU to observe the order of our said court in this behalf and in all things have it duly recognized, obeyed, and executed.

WITNESS, the Hon. Tracy Christopher, Chief Justice of our Fourteenth Court of Appeals, with the Seal thereof affixed, at the City of Houston, Texas, July 25, 2025.



DEBORAH M. YOUNG, CLERK

Deborah M. Young

Appendix A

THE STATE OF TEXAS	§	IN THE DISTRICT COURT
VS.	§	122nd JUDICIAL DISTRICT
TONNERRIOUS JAMARCUS MCGEE	§	GALVESTON COUNTY, TEXAS

ORDER AFTER MANDATE

On January 10, 2024, TONNERRIOUS JAMARCUS MCGEE was found guilty of evading arrest with a motor vehicle. On January 11, 2024, the Court set punishment at confinement for 3 years, but suspended confinement for 3 years. Appeal of the conviction and sentence were perfected by the filing of a notice of appeal.

On April 10, 2025, a judgment by the Court of Appeals, Fourteenth District of Texas was rendered in Case No. 14-24-00102-CR, affirming the Defendant's conviction. Mandate was issued on July 25, 2025. Defendant appeared on 20th day of October, 2025, and sentence was imposed according to the Mandate.

The disposition of appeal being completed by the issuance of the Mandate and the exhaustion of the appellate remedies, the probated sentence hereby commences in this cause. The probated sentence and terms of Community Supervision in the case which are set out in the Judgment of Conviction by Jury entered January 11, 2024 shall begin on 10/20/2025.

Therefore, it is hereby ORDERED that the Defendant, TONNERRIOUS JAMARCUS MCGEE, report to the Galveston County Community Supervision Department to begin service of the probated sentence in this cause, and to begin or continue the payment of the costs and fine imposed and to comply with all other terms and conditions of Community Supervision.

It is further ORDERED that the Clerk of this Court shall see this Order entered and then deliver a copy of this Order After Mandate and a copy of the Judgment of Conviction to the

Appendix B

Defendant, TONNERRIOUS JAMARCUS MCGEE, and the Galveston County Community
Supervision Department.

SIGNED on this the 20th day of October, A.D., 2025.



Jeth Jones, Judge
122nd Judicial District Court
Galveston County, Texas

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the **PETITION FOR REHEARING** and attachments (appendix) accompanied with **PETITION FOR REHEARING** was served on the Respondent and others, **Solicitor General of the United States**, Room 5616, Department of Justice, 950 Pennsylvania Avenue, N. W. Washington D.C, 20530-0001, **Attorney General of Texas** (Solicitor General of Texas), P.O. Box 12548, Austin, Texas, 78711-2548, and **Governor of Texas**, Office of the Governor, P.O. Box 12428, Austin, Texas, 78711-2428 on the 9th day of December, 2025 by certified mail.

All parties required to be served have been served in compliance with Sup. Ct. R. 29.1–29.7.

Respectfully submitted,



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PETITIONER