No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

BRADFORD ALLEN THOMPSON
Petitioner,

V.

THE STATE OF TEXAS
Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO THE SEVENTH COURT OF APPEALS IN AMARILLO, TEXAS

Petition for Writ of Certiorari

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Question Presented

Whether *Dawson v. Delaware's*[1] First Amendment prohibition against using a defendant's "abstract beliefs" (in this case, an interest in Nazi literature and Petitioner's SS lightning-bolt tattoos) as sentencing evidence applies to non-capital felony cases and more importantly, should this Court revisit *Dawson* and adopt an appropriate standard to guide a *Dawson* relevancy inquiry?

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[1] 503 U.S. 159 (1992).

List of Parties

The petitioner is Bradford Allen Thompson

The respondent is the State of Texas

Related Cases

The following cases are directly related to this petition (same case):

State v. Bradford Allen Thompson, No. 12,896, 46th Judicial District Court of Wilbarger County, Texas. Judgment and Sentence entered and pronounced on **December 14, 2023**.

State v. Thompson, No. 07-24-00082-CR, Court of Appeals, Seventh District of Texas sitting at Amarillo. Memorandum Opinion issued and Judgment entered on **March 14, 2025**.

State v. Thompson, No. PD-295-25, Court of Criminal Appeals of Texas. Petition for Discretionary Review refused on **June 18, 2025.**

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Appendix A — the Memorandum Opinion of the Court of Appeals for the Seventh District of Texas at Amarillo (March 14, 2025) ..... App. A

Appendix B — Judgment of Conviction by Jury and sentence of the 46th Judicial District Court of Wilbarger County, Texas (December 14, 2023) ..... App. B

Appendix C — Postcard from Court of Criminal Appeals refusing petition for discretionary review (June 18, 2025) ..... App. C[2]

[2] The Court of Criminal Appeals does enter an order. No motion for rehearing was filed.

Table of Authorities

Cases:

Davis v. State,
329 S.W.3d 798 (Tex. Crim. App. 2010) 7

Dawson v. Delaware,
503 U.S. 259 (1992) ..... ii, 2, 7, 8, 9, 10

Dean v. State,
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Constitution:

U. S. Const. Amend. I 1, 12

U. S. Const. Amend. XIV 2, 12

Statutes:

Tex. Code Crim. Pro. Art. 37.07 2

Tex. Penal Code § 9.31 4

Tex. Penal Code § 9.32 4

Tex. Penal Code § 19.02 5

Petition for Writ of Certiorari

Bradford Allen Thompson petitions the Court to review the decision of the Court of Appeals for the Seventh District of Texas affirming his judgment and sentence for the offense of murder.

Opinion Below

The opinion below is attached hereto and may be found at *State v. Thompson,* 07-24-00082-CR, WL 825077, (Tex. App. — Amarillo, March 14, 2025).[3]

Jurisdiction

The Texas Court of Criminal Appeals refused Mr. Thompson's petition for discretionary review on June 18, 2025.[4] Accordingly, 28 U.S.C. § 1257a provides this Court with certiorari jurisdiction.

Constitutional Amendments Involved

United States Constitution Amendments 1 and 14.

First Amendment: Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof; or

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[3] Pet. App. A pp. 1-16.

[4] Pet. App. C.

abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Fourteenth Amendment: in relevant part provides "... No State shall ... deprive any person of life, liberty, or property, without due process of law ...[5]

Statement of the Case

A. Prologue

In order to understand the application of *Dawson v. Delaware,* it is necessary to provide a summary of the "trial" and "appellate" facts and the defensive issues joined at the "bifurcated"[6] trial of Mr. Thompson.

B. Facts and Background

Bradford Thompson a mild-mannered security guard with no prior criminal history shot and killed Andre Sandoval who had been sitting on the curb outside Thompson's home.[7]

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[5] *Gitlow v. New York,* 268 U.S. 652 (1925) made the First Amendment to the Constitution applicable to the states by virtue of the Fourteenth Amendment.

[6] Tex. Code Crim. Pro. Art. 37.07. Texas statutory law permits the accused to elect to have the trial jury (in a separate hearing) assess punishment creating two phases to a Texas jury trial: the so-called guilt-innocence phase and the punishment phase or punishment hearing.

[7] The killing was particularly brutal, as indicated by the court of appeals. Pet. App. A p. 1-2.

For a period of approximately four months prior to the shooting, Sandoval had been "lurking" and "sitting on curbs throughout [Thompson's] neighborhood and near [Thompson's] home."[8] Sarahrae Thompson, Petitioner's wife, testified concerning Sandoval's behavior (as summarized by the court of appeals):

> [Sandoval] would sometimes pace, mumble, and lie in the grass. Mrs. Thompson was particularly uncomfortable when Sandoval would sit across the street watching her grandchildren play; a medical condition prevented her from defending herself and the children. She testified that Appellant was aware of her concerns and that they had called the police multiple times regarding Sandoval. According to her testimony, officers advised them that Sandoval was not breaking any law and there was nothing they could do to remove him. Following Appellant's arrest, he said during a jailhouse telephone call with his wife, "I took care of the problem."[9]

The defense initially offered Sarahrae Thompson's testimony during the guilt-innocence phase of trial regarding Sandoval's behavior and in particular Petitioner sought to introduce testimony concerning an incident between her, her husband and Sandoval which occurred three days before the shooting as follows:

> Mr. Thompson's testimony outside the jury's presence indicated that while she and Appellant were unloading

[8] Pet. App. A p. 2.

[9] Pet. App. A p. 3. Ms. Thompson testified during Petitioner's punishment hearing.

> groceries from their vehicle, Sandoval approached the corner nearby. She heard him say the word "gun." She turned to her husband and asked, "Did he say gun?" Her husband responded by asking, "Does he have a gun?" She replied that she did not know and suggested they quickly take their groceries inside the house.[10]

Petitioner contended the "gun utterance" was admissible in support of justification theories of self-defense and defense-of-another (Sarahrae Thomspson).[11] The defense argued that Sandoval's threatening presence over a four-month period coupled with Petitioner's ordinarily peaceful character[12] allowed a rational jury to infer that Sandoval provoked Petitioner (in some manner unseen by witnesses) and triggered Thompson's brutal response.

(The Petitioner did not testify at trial and although several witnesses detailed the shooting, no third-party witness saw the initial encounter between Petitioner and Sandoval.)[13]

The judge ruled the "gun utterance" incident inadmissible at the

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[10] Pet. App. A p. 3 fn. 4. This testimony was hotly contested throughout the trial.

[11] Tex. Penal Code §§ 9.31, 9.32 (in Texas jurisprudence, self-defense and defense-of-another are justification defenses).

[12] Petitioner, a father and grandfather, was 54 years old and worked as a security guard for the Vernon State Hospital of Texas for 12 years.

[13] Pet. App. A. p. 1.

guilt-innocence phase of trial and declined to instruct the jury on self-defense or defense-of-another and the jury found Petitioner guilty of murder.[14]

During the punishment phase of the trial the defense once again offered Ms. Thompson's testimony including the "gun utterance" incident in order to demonstrate that the shooting "was out of character for [Thompson] and resulted from stress and fear caused by Sandoval's behavior."[15]

Counsel argued that Petitioner simply "Snapped,"[16] thus, permitting the jury to find that the shooting was an act of "sudden passion" stemming from an "adequate cause" and compelling a conviction for the lesser offense of second-degree murder.[17]

Once again, the district judge refused to admit the testimony of Ms. Thompson regarding the "gun utterance" and likewise refused to instruct

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[14] Pet. App. A p. 1.

[15] Pet. App. A p 15

[16] Pet. App. A p. 15.

[17] Tex. Penal Code § 19.02 ("at the punishment stage of trial, the defendant may raise the issue as to whether he caused the death under the immediate influence of sudden passion arising from an adequate cause), *Trevino v. State,* 100 S.W.3d 232 (Tex. Crim. App. 2003) (if the evidence from any source raises the issue, the trial court must submit the issue to the jury).

the jury on second degree murder (sudden passion for an adequate cause).[18] [19]

After the shooting, while in jail, Petitioner had a telephone conversation and sent text messages to his wife from jail "requesting books by Adolf Hitler and about Nazi Germany,"[20] as well as photographs of Petitioner's "tattoo displaying lightning bolt symbols associated with white supremacist ideology."[21] The State offered this evidence during the punishment suggesting that racial animus may have contributed to the shooting.

Petitioner objected to the admission of this evidence as a violating the First Amendment to the Constitution contending that this so-called evidence of Mr. Thompson's "abstract beliefs," was irrelevant to any issue regarding proper punishment since no evidence of motive had entered the

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[18] *McKinney v. State,* 179 S.W.3d 565 (Tex. Crim. App. 2005) ("a jury should receive a sudden passion charge if it is raised by the evidence, even if that evidence is weak, impeached, contradicted, or unbelievable. However, the evidence cannot be so weak, contested or incredible that it could not support such a finding by a rational jury."); *see also Newkirk v. State,* 506 S.W.3d 188, 193 (Tex. App. — Texarkana, 2016, *no pet.*) (anything more than a scintilla of evidence is sufficient to entitle a defendant to a sudden passion instruction.)

[19] Pet. App. A. pp. 5-8.

[20] Petitioner requested "Mein Kampf" by Adolf Hitler and "The Rise and Fall of the Third Reich" by William L. Shirer.

[21] Pet. App. A p. 14.

case at either phase of trial.

At conclusion of the punishment phase the jury assessed a sentence of life imprisonment

C. Prior Proceedings

Petitioner complained on appeal concerning the Nazi literature innuendo and the SS lightning-bolt tattoos. The court of appeals in its opinion recognized the application of *Dawson* but noted the general proposition that *Dawson* "does not prohibit the evidentiary use of speech to establish elements of a crime or to prove *motive or intent*" (italics added).[22]

No evidence whatsoever was introduced by either party during the guilt-innocence phase concerning any racial animus — or even any motivating beliefs ascribed to Thompson. The court of appeals nonetheless found the "State here presented evidence from which the jury could infer a possible motive for Appellant's specific actions toward Sandoval," and specifically held that this evidence was "directly relevant to *rebut* [Petitioner's] claim that he simply 'snapped' when he repeatedly

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[22] *Wisconsin v. Mitchell,* 508 U.S. 476, 489 (1993), *see also Davis v. State,* 329 S.W.3d 798, 805 (Tex. Crim. App. 2010) (citing *Dawson v. Delaware*), *see also,*

shot Sandoval."[23]

Motive evidence might have been justified had there been anything to "rebut," but since the court disallowed either self-defense or defense-of-another justification theories or sudden passion mitigation at punishment there was nothing for the State to "rebut."

The Petitioner did not testify and Sarahrae Thompson's testimony about the "gun utterance" was never admitted, thus, the literature request and Petitioner's tattoos stood alone before the jury without any reference point — particularly in light of the absence of any contrary guilt-innocence evidence.

The district court invited the jury to simply speculate about Petitioner's motive by showing a simple interest in certain reading material and "lightning bolt" tattoos suggesting to the jury that the Petitioner *might* hold "morally reprehensive" beliefs or sympathies regarding white supremacy[24] and that such might be the reason for Petitioner's brutal behavior.

The court of appeals through its decision agreed with the admission

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[23] Pet. App. A pp. 15-16.

[24] *Dawson*, 503 U.S. at 166.

of the evidence and sanctioned a deviation from the holding of *Dawson*.

Petitioner sought review of the court of appeals' decision before the Texas Court of Criminal Appeals, but Mr. Thompson's petition was refused on June 18, 2025.

Reasons for Granting this Petition

This Court issued *Dawson v. Delaware* in 1992, in a "death penalty" case handed down more than 30 years ago. This Court reasoned "the Constitution does not erect a *per se* barrier" to the admission of First Amendments beliefs and associations during *capital sentencing*. Since that time, however, the Court has apparently not revisited the issue of the First Amendment's application to sentencing evidence in a meaningful way and particularly in non-capital cases.

This case's fact pattern, in a non-capital felony, provides this Court with a vehicle to review and consider 30 years of *Dawson* jurisprudence at the state court level. The application of *Dawson* to a case where the state courts arguably strayed from a proper relevancy inquiry and admitted into evidence petitioner's simple interest in certain literature and a body tattoo — all irrelevant to any issue during punishment, demonstrates that state courts, in the non-capital context, are quite

likely to abuse the holding of *Dawson.*

The court of appeals in this instance made the following *telling* observation:

> Evidence is relevant to punishment when "it is helpful to the jury in determining the appropriate sentence for a particular defendant in a particular case" [cite omitted]. *Importantly, relevance at the punishment phase "is a function of policy rather than a question of logical relevance,"* because sentencing "is a normative process, not intrinsically fact bound." *Sunbury v. State,* 88 S.W.3d 229, 233-34 (Tex. Crim. App. 2002) (adding that one of the policy goals is provide "complete information for the jury to tailor an appropriate sentence"). [italics added].

"Relevance at the punishment phase" according to this state court of appeals is "a function of policy," but Dawson, in defense of the First and Fourteenth Amendments suggests otherwise.

> *Even if the Delaware group to which Dawson allegedly belongs is racist,* those beliefs so far as we can determine, had no relevance to the sentencing proceeding in this case. For example, the Aryan Brotherhood evidence was not tied in any way to the murder of Dawson's victim.[25] [italics added].

Moreover, in the present case the court of appeals dismissed Petitioner's complaint and yet acknowledged that membership in an organization played no part in the evidence at hand.

Appellant relies on *Dean v. State,* 905 S.W.2d 570, 577 (Tex.

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[25] 503 U.S. at 166.

> Crim. App. 1995), which addresses admission of gang membership evidence. This test is inapplicable here, *as the State never alleged Appellant belonged to any organization.*[26][italics added].

Dawson dealt with his purported membership in a gang — the "Aryan Brotherhood" and as indicated by the court of appeals here, no such connection existed in this case.

The phone conversation between Petitioner and his wife and his text message requesting "Mein Kampf" and "The Rise and Fall of the Third Reich" occurred *after the murder* when Petitioner was confined in jail, not before the Killing. Motive, if it occurs at all, usually reveals itself before or during the event, not after.[27]

If "abstract beliefs" are permitted in some instances and "motive" is the stated exception, then what could be more "motiveless" than a request for literature occurring after the fact. These two items of literature, taken alone, without any context do not signal an earlier motive nor do they even provide evidence of an "abstract belief." Although "Mein Kampf" could be evidence of a belief, it could simply be a curiosity also. "The Rise and Fall of the Third Reich" is an award-winning scholarly effort not

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[26] Pet. App. A p.16

[27] *Cf. Woodward v. State,* 170 S.W.3d 726, 729 (Tex. App. — Waco 2005).

indicative of any belief whatsoever and possession of these works should not be considered even as evidence of a so-called "abstract belief."

Although complaints of erroneous rulings or misapplication of precedent do not ordinarily justify certiorari, the fact pattern of this case provides this Court with an "real world" opportunity to examine the impact of "white supremacy" ideology and its impact on state court level punishment and sentencing decisions in non-capital cases.

In this day and age, it is self-evident that the topic of "white supremacy" pervasive and the interest in such a topic is capable of being used, or rather misused, in the context of a state court trials many times all contrary to the protections of the First and Fourteenth Amendments afforded to our citizens and who better than this Court is in the best position to guard against that misuse.

Conclusion

The Court should GRANT this petition and permit the parties to fully brief and argue this matter and ultimately vacate and remand the decision of the Seventh Court of Appeals of Texas.

Respectfully Submitted,

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