

25-5767

ORIGINAL

BEFORE THE  
SUPREME COURT OF THE UNITED STATES

FILED  
SEP 05 2025  
OFFICE OF THE CLERK  
SUPREME COURT, U.S.

Robert Draft

PETITIONER

vs.

Case No. \_\_\_\_\_

Dexter Payne, Director  
Arkansas Department of  
Correction

RESPONDENT

*Corrected*

On Petition for Writ of Certiorari to the  
United States Court of Appeal for the  
Eighth Circuit Case Number 25-1800

Robert Draft, pro-se  
160040 P.O. Box 970  
Marianna, Arkansas  
72360-0970

## **I Questions Presented**

- 1) Did the United States District Court error in ruling that Mr. Draft's petition for writ of Habeas Corpus was untimely?
- 2) Did the United States District Court error in denying Mr. Draft a Certificate of Appealability?
- 3) Did the Circuit Court of Appeals error in denying to issue Mr. Draft a certificate of Appealability?
- 4) Did the Circuit Court of Appeals error in refusing to address the merits of Mr. Draft's appeal because he could not pay for their time or purchase their attention.

## **II List of Parties**

Robert Draft - Petitioner  
160040 P.O. Box 970  
Marianna, Arkansas 72360-0970

Dexter Payne, Director - Respondent  
Arkansas Department of Correction  
6814 Princeton Pike  
Pine Bluff, Arkansas 71602-9411

## **III Corporate Disclosure Statement**

There is no parent or publicly held company owning 10% or more of a corporation's stock involved in this matter.

#### **IV List of Proceedings**

- 1) State of Arkansas v. Robert Draft, circuit court for White County, Arkansas, Case Number 73CR-2014-206, found guilty of second-degree murder by jury trial on February 2015, not reported.
- 2) Draft v. Arkansas, 2016 Ark. 216, 489 S.W. 3d 712, (Ark. App. 2016), affirmed the judgment and sentence on 20 April 2016.
- 3) Draft v. Arkansas, Circuit Court for white County, Arkansas, Case Number 73CR-2014-206, Petitioner for Post-Conviction Relief pursuant to Rule 37, Ark R. Crim. P., filed by Mr. Draft on 07 June 2016.
- 4) Draft v. Arkansas, 2020 Ark. App. 171, 596 S.W. 3d 585, (Ark. App. 2020) affirmed the circuit court for White County, Arkansas' denial of post-conviction relief pursuant to Rule 37, Ark. R.Crim.P.
- 5) Draft v. Arkansas, not reported, Mr. Draft filed for review in the Arkansas Supreme Court of the Arkansas Court of Appeal's affirmation of the Circuit Court's Denial of his petition for post-conviction relief pursuant to Rule 37, Ark. R.Crim.P.
- 6) Draft v. Arkansas, not reported, the Arkansas Supreme Court denied to review on 21 May 2020.
- 7) Draft v. Payne, Circuit Court for Lee County, Arkansas, Case Number 39-CV-2021-4, State petition for Writ of Habeas Corpus. This petition is still pending in this court.
- 8) Draft v. Payne, United States District Court, Eastern District of Arkansas, Central Division, Case Number 4:22-cv-00499-JTK, Federal Petitioner for Writ of Habeas Corpus under 42 U.S.C. § 2254, denied 14 April 2025.
- 9) Robert Draft v. Dexter Payne, Eighth Circuit Court of Appeals, Case Number 25-1800, 23 April 2025 case docketed, remanded to District Court for a determination of whether to issue a certificate of appealability.
- 10) Draft v. Payne, United States District Court, Eastern District of Arkansas, Central Division, case number 4:22-cv-00499 JTK, denial of Certificate of Appealability, 25 April 2025.

11) Robert Draft v. Dexter Payne, Eighth Circuit Court of Appeals, case number 25-1800, Certificate of Appealability denied, appeal dismissed, 09 June 2025. Petition for Rehearing denied, 14 July 2025.

12) Which now brings this matter to the Supreme Court of the United States for a petition for Writ of Certiorari to the United States Court of Appeals for the Eighth Circuit, case number 25-1800.

## V TABLE OF CONTENTS

Questions Presented .....	1
List of Parties .....	1
Corporate Disclosure Statement .....	1
List of Proceedings/Decisions below .....	2
Table of Authorities .....	4
Citations .....	5
Jurisdictional Statement .....	6
Constitution and Statutory Provisions Involved .....	6
Statement of the Case .....	7
Reasons for granting the Writ .....	9
Importance of the questions presented .....	9
Conclusions .....	10
Declaration / Verification .....	10
Certificate of Service .....	11
Certificate of Institutional Filing .....	11
Notary .....	13

## **APPENDIX**

Decisions of the Eighth Circuit Court of Appeals  
Order Denying Rehearing  
Order of the District Court Denying  
Certificate of Appealability  
Decisions of the Arkansas Court of  
Appeals, Denial of Rule 37  
Decisions of the Arkansas Court of  
Appeals, Direct Appeal  
Mr. Draft's proposed Appellant Brief  
to the Eighth Circuit  
Excerpt from Trial Transcript, Court's  
Instructions to Jury  
Excerpts from Trial Transcripts, Defense  
Cross Examination of Kathie Draft  
Printed Jury Instructions  
Excerpts from Rule 37 Hearing  
Petitioner's rebuttal  
Argument from Appellant Brief  
Direct Appeal  
Letters from Attorney Jonathan R. Street

## **VI TABLE OF AUTHORITIES**

ABF Freight System, Inc. V. International Brotherhood of teamsters, 645 F3d 954, 958, (8th Cir. 2011)	8
Arkansas v. Martineau-CAO, 149 Ark. 237, (1921)	8
Arkansas Laws Act 49 of 1870	8
U.S. Congressional Act of 05 February 1867	8
First (1st) Amendment, U.S. Constitution	6
Fourteenth (14th) Amendment, U.S. Constitution	6

## VII Citations

- 1) Arkansas v. Draft, 73-CR-2014-206, (White Cty, Ark. 2015)
- 2) Draft v. Arkansas, 2016 Ark. 216, 489 S.W.3d 712, (Ark. App. 2016)
- 3) Draft v. Arkansas, 73-CR-2014-206, (White Cty, Ark. 2016)
- 4) Draft v. Arkansas, 2020 Ark. App. 171, 596 S.W.3d 585, (Ark. App. 2020)
- 5) Draft v. Pryor, 39-CV-2021-4, (Lee Cty, Ark.)
- 6) Draft v. Pryor, 4:22-cv-00499-JTK, (U.S.D.C., E.D. Ark., 2025)
- 7) Draft v. Pryor, 25-1860, (USAPB-2025)

The statutes of the United States and the State of Arkansas secure Mr. Draft's right for an impartial Judicial inquiry. A dismissal of his claims for relief based solely on a cursory glance, a De Novo review, without a hearing where the court can make an in-depth evidentiary inquiry is to deny him the ability to effectively present the legitimacy of his complaint. More so when it may be beyond the Petitioner's ability to artfully style and articulately present his claims sufficiently to make them understood.

### **V/// Basis for Federal Jurisdiction**

This case raises questions of interpretations of the due process and equal protection clauses of the fourteenth (14th) amendment and the right of redress for wrongs clause of the first (1st) amendment, to the United States Constitution. The District Court had jurisdiction under the general question of jurisdiction conferred by 28 U.S.C. § 1331.

The Judgment of the United States Court of Appeals for the Eighth Circuit was entered on 09 June 2025. An order denying a petition for rehearing was entered on 14 July 2025, A copy of these are attached in the appendix. Jurisdiction is conferred by 28 U.S.C. § 1254(1).

### **/X Constitutional and Statutory Provisions Involved**

This Case Involves the First (1st.) Amendment to the United States Constitution, which provides:

“...and to petition the Government for a redress of grievances.”

This Case Involves the Fourteenth (14th.) Amendment to the United States Constitution, which provides: “section one (1) ... 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 any person within its jurisdiction the equal protections of the laws.

Mr. Draft is in possession of a protected liberty interest in engaging in the conduct of one’s choosing. A liberty interest is any form of conduct, action, or even inaction that reflects in any way a customary understanding of what a person ought to be free to do, so that a process burdening that interest must be justified as a matter of due process of law. Mr. Draft had a life interest in defending himself with lethal force when being fired upon, which is truly fundamental



to the national sense of customary allowance or ordered liberty. Mr. Draft has a liberty interest to seek redress of wrongs without obstruction, which cannot be arbitrarily denied.

### X Statement of the Case and Argument

The cost of litigation is unreasonable and unconscionable and produces a disparative impact on indigent litigants. Denying an indigent litigant In forma Pauperis status and/or denying a certificate of appealability operates as a deterrent to the filing of legitimate non-frivolous claims and is, therefore, a denial of justice.

These factors dictate a denial of the due process and equal protection clauses of the fourteenth (14th) amendment; and denial of the right to petition the government for redress of wrongs clause of the first amendment.

The court's clear disapproval of indigent prisoner litigants conflicts with the founding documents and principles of the American Democratic republic and the common decency of modern society. With the prison litigation reform act's 28 U.S.C. § 1915 being used by the courts as less expensive and more expeditious means of clearing their dockets of prisoner plaintiff litigants, violating the principles of fundamental fairness. This goes beyond negating the resolving of constitutional violations on the merits; It rubber stamps the violations of individual constitutional protections by entities and/or their actors, favoring the government and those in Authority over indigent litigants. Placing an unreasonable and impossible burden on incarcerated plaintiffs, who do not have the resources nor liberty to investigate and obtain evidence, to prove his claims as a precondition to be allowed to litigate their claims because of their inability to purchase constitutional protections from the courts.

The courts have singled out those who can pay the \$405.00 filing fee or the \$605.00 appellant free for preferential special status and scrutinizing indigent prisoner plaintiffs for quick dismissal of their claims. This approach is misguided.

Because the structural provisions of the constitution protect individual liberty and not the government entities or their actors, a fair proceeding is one in which evidence subject to adversarial testing is presented to an impartial tribunal for the resolution of issues defined in advance of the proceedings.

A “Legally protected interest” requires only a “judicially cognizable interest”. see ABF Freight system, Inc. v. International Brotherhood of teamsters, 645 F3d 954, 958, (8th Cir. 2011)

“We the people” have elected to employ an adversary system of criminal justice in which the parties contest all issues before a court of law. The need to develop all relevant facts in the adversary system is fundamental and comprehensive; to the ends of criminal justice would be defeated if litigation and judgments are reduced to only those who can pay the significant price to have their narrative be heard, and not those who cannot pay.

Habeas Corpus petitions in Arkansas remain virtually unavailable despite the passing of the Arkansas Laws Act 49 of 1870, mirroring the United States Congressional Act of 05 February 1867. This is because contrary to jurisprudence established by Arkansas v. Martineau, 149 Ark 237, (1921), the current decisions of the Arkansas Courts, in this case and others, reveal consistently unreasonable and incorrect interpretations of Act 49 of 1870, such that virtually no prisoner litigants can meet the current court’s requirements of a showing “lack of jurisdiction of the trial court” or “facial invalidity of the judgment and commitment order”; Thereby depriving litigants of their procedural due process rights. While the Acts and Statues ostensibly create a liberty interest, the Arkansas courts have erected arbitrary barriers that frustrate the very right that the Acts and statues purports to create.

Contrary to the Arkansas Court’s construction, in this case and others, the Acts and statues do not require that the petitioner establish a “lack of Jurisdiction” or “facial invalidity” or that petitioners exonerate themselves as a condition of initial matter before being granted the writ for its hearing..

### **XI Reasons for Granting the Writ**

There are novel arguments being presented to this court.

There exists issues of significant public interest involving substantial questions concerning the interpretations of Acts by the courts.

That this court could illuminate unconstitutional actions and omissions by public servants; establishing proper constitutionally strict precedents.

That the orders and judgments of the courts below are erroneous and conflicting with the opinions previously held by this court

Issues needing clarification and developments of law.

### **XII Importance of the questions presented**

That the orders and judgments of the courts below, if allowed to stand, will have a severely adverse effect on the perception of the courts ability for independence, integrity, and impartiality; It will have a synergistic negative affect on the public's confidence in the judiciary.

The courts below have violated and disregarded their duties and responsibilities as expressed in the founding documents, and of the spirit of their pledge, mission, and function of being the "watch dog" for the Citizenry of the American Democratic Republic.

The courts below have not only violated Mr. Draft's secured and guaranteed constitutional and statutory rights, but have set upon a dangerous path for continuing the precedent in allowing the ignoring, invalidating, and dismissing of the protected and expressed constitutional and statutory rights of the public at large. Thereby, creating the necessity for this court to involve itself for the benefit and defense of all peoples of the republic.

Wherefore premises considers Robert Draft respectfully request and believes that this court will find it reasonable, ruling on the square and by the compass, to: Grant-Certiorari in this case; plus any and all other relief and expiation that may be available, just and proper.

Respectfully Submitted

*Robert Draft 9-23-25*

Robert Draft, pro-se  
160040 P.O. Box 970  
Marianna, Arkansas  
72360-0970

**Declaration / Verification**

I, Robert Draft, do hereby declare and verify, under penalty of perjury in accordance with 28 U.S.C. § 1746 and 18 U.S.C. § 1621, that the above statements contained herein are true and correct to the best of my knowledge and belief as executed by my hand on this 23 day of September 20 25 c.e.

Declarant

*Robert Draft 9-23-25*

Robert Draft, pro-se  
160040 P.O. Box 970  
Marianna, Arkansas  
72360-0970