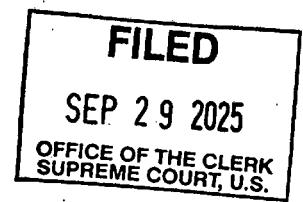


ORIGINAL

25-5885

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



IN THE  
SUPREME COURT OF THE UNITED STATES

VASQUEZ HAYES

PETITIONER

Vs.

DEXTER PAYNE, Director,  
Arkansas Division of Correction

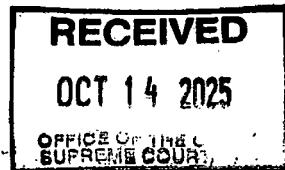
RESPONDENT

ON PETITION FOR A WRIT OF CERTIORARI TO  
ARKANSAS SUPREME COURT

PETITION FOR WRIT OF CERTIORARI

VASQUEZ HAYES

P.O. Box 600  
Grady Ark 71644



## **QUESTIONS OF LAW PRESENTED**

- (1) Isn't it true and/or fact, the due process embodied in the Constitution is guaranteed to criminal defendants?
- (2) Isn't it true and/or fact, no judge or other government official can war against the Constitution, in a way that is considered treason?
- (3) Isn't it true and/or fact, the Constitution of a state is to be the authority of that State?
- (4) Isn't it true and/or fact, Legislature's are the soul officials of creating law?
- (5) Isn't it true and/or fact, intent of the Legislature is to be carried out in court decisions?
- (6) Isn't it true and/or fact, when a Legislature creates a statute, an amendment to it does not change the ordinary meaning of intent, unless the Legislature construct law that clearly says the intent is changed?
- (7) Isn't it true and/or fact, we look to the language, Legislative history, and the subject matter involved, as a rule of statutory construction
- (8) Isn't it true and/or fact, the word amend means addition, alteration. But the hallmark of an amendment is that it follows the same process of adoption, as the original text, or statement. Are it follow specified by the authority according to which the original took its form?
- (9) Isn't it true and/or fact, supersede does not mean the replacement of something or someone unless the judgment is reversed or vacated on appeal?
- (10) Isn't it true and/or fact, courts are not to Legislate from bench?
- (11) Isn't it true and/or fact, statutes are construed with all doubts in favor of the petitioner?

(12) Isn't it true and/or fact, the language in which a statute was originally formed is controlling?

## **LIST OF PARTIES**

All parties appear in the caption of the case on the cover page.

## **RELATED CASES**

Hayes v. State, 2025 Ark. 52

Hayes v. State, CV-24-332

## TABLE OF AUTHORITIES CITED

<u>Cases</u>	<u>Page No.</u>
Hays v. United States 242 U.S. 470, at 485	5
Ark. Tobacco Control Bd. v. Santa Fe Nat. Tobacco Co., 360 Ark. 32, 199 S.W. 3d 656, 659 (2004)	6
Connecticut Nat'l Bank v. Germain 503 U.S. 249, 253-254	7
Roesler v. Denton, 239 Ark. 462, 464	6
560 U.S. at 79, 130 S. Ct. 2011	8
Contreras, 4 Cal 5 <sup>th</sup> at 362	8
United States v. Olano 507 U.S. 725, 736-37	9
Mapp v. Ohio 367 U.S. 643, at 659	9
Ex Parte Milligan 71 U.S. 2, 132 (1866)	9

### Statutes and Rules

A.C.A. § 41-901	5
A.C.A. § 5-4-401	5
A.C.A. § 5-4-104	5
A.C.A. § 5-4-403	7
A.C.A. § 1-2-103	7

### Others

(Bouvier Law Dictionary) 2012

## **TABLE OF CONTENTS**

OPINIONS BELOW .....	1
JURISDICTION .....	2
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED ..	3
STATEMENT OF THE CASE .....	4,5
REASONS FOR GRANTING THE WRIT .....	6, 7, 8, 9, 10
CONCLUSION .....	11

## **INDEX TO APPENDICES**

APPENDIX A	Order of State Circuit Court Denying Review
APPENDIX B	Decision of State Supreme Court Denying Review
APPENDIX C	Order of State Supreme Court Denying Rehearing

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.

The opinion of the highest State Court to review the merits appears at Appendix B to the petition and is  
Reported at Hayes v. State, 2025 Ark. 52

The opinion of the Lincoln County Circuit Court appears at Appendix A to the petition and has been designated for publication but is not yet reported.

## **JURISDICTION**

The date on which the highest State Court decided my case was May 1, 2025. A copy of that decision appears at Appendix B.

A timely petition for rehearing was thereafter denied on the following date: July 17, 2025, and a copy of the Order denying rehearing appears at Appendix C.

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

## **CONSTITUTIONAL AND STATUTORY PROVISIONS PROVIDED**

Ark. Const. Art. 5 § 21

Ark. Const. Art. 2 § 8

U.S. Const. Amend. 14 § 1

U.S. Const. Amend. 8

## **STATEMENT OF THE CASE**

On May, 2017 a sentencing order was entered reflecting that a Miller County jury, found Petitioner Vasquez Hayes guilty as charged. The jury fixed petitioner's sentence of residential burglary, robbery both being aggravated, kidnapping, and two theft charges to a term of years. As of the two rape charges that the jury found petitioner guilty of, the trial courts fixed petitioners sentence to a term of years due to the fact, jury was undecided of what to sentence petitioner to. Petitioner was sentenced to a term of 80 years by the trial court for imprisonment, in the Arkansas Division of Correction. On June 7, 2023 petitioner filed a state habeas corpus with the Lincoln County Circuit Court, claiming his sentence exceeded the legislative intent limiting, by plain language, commentary listed in the 1977 replacement copy of the 1947 Arkansas Statutes, see Hayes v. Payne, 40CV-23-82. And that this 80 year sentence is illegal because it violates the legislature's intent not to sentence of more than 50 years when a sentence of life is not imposed by the jury. And it violates the Eighth Amendment's prohibition against cruel and unusual punishment. The circuit court denied and dismissed his petition for failing to challenge the jurisdiction of the court or the facial validity of his sentencing order. Petitioner then appealed to the Arkansas

Supreme Court, and it too was denied and dismissed, see Hayes v. State, 2025 Ark. 52. Petitioner filed a timely rehearing which also was denied, see Hayes v. State, CV-24-332. Petitioner then filed a timely rehearing which also was denied, see Hayes v. State, CV-24-332

## REASONS FOR GRANTING THE PETITION

The Arkansas Legislature Commission on sentencing established Legislative intent in the 1977 Replacement Copy of the 1947 Arkansas § 41-901 Statutes, stating the maximum term when a jury chooses not to impose a life sentence, is 50 (fifty) years. Petitioner sentence exceeds this term. Subsection (1) (a) authorizes a maximum term of 50 years upon conviction of a Class A felony, when the jury or court decides not to impose a life sentence. The limitation prevents a sentence to a term of years that exceeds as a practical matter a life sentence. Petitioner allows that the statutes have changed over the years, referring to A.C.A. § 5-4-401 and § 5-4-104 which explains in commentary the amendments of the statutes, however to date Petitioner cannot find one comment implying the Legislature's intent to override this statement. Petitioner brought this single claim before the Arkansas Supreme Court, according to (Hays v. United States 242 U.S. 470, at 485) stating: "It is elementary that the meaning of a statute, must in the first instance be sought in the language in which the act is framed, and if that is plain and if the law is within the constitutional authority of the law making body which passed it, the sole function of the courts is to enforce it according to its terms. Also according to (Ark. Tobacco Control Bd. v. Santa

Fe Nat. Tobacco Co., 360 Ark. 32, 199 S.W. 3d 656, 659 (2004)) stating: "The basic rule of statutory construction to which all interpretive guides must yield is to give effect to the intent of the Legislature." In doing so we must look at the language, Legislative history, and subject matter involved. *Id.* Adding "Courts must presume that a legislature says in a statute what it means, and means in a statute what it says (quoting) (Connecticut Nat'l Bank v. Germain 503 U.S. 249, 253-254). The Arkansas Supreme Court in the denial of his claim, violated their own Constitution Article 5 § 21 reading; No law shall be passed through either house, as to change its original purpose. The controlling language of the Constitution is mandatory (quoting) (Roesler v. Denton, 239 Ark. 462, 464) but in the denial of his claim, Arkansas Supreme Court ignored their own law of their Constitution above, by exercising their own agenda legislating from the bench in using law that completely contradicts the authority of the Arkansas Constitution, not to change the original purpose of a bill by amendment. Petitioner also affords that A.C.A. § 5-4-403 in which the Arkansas Supreme Court used to deny his claim, allows sentences to be ran consecutively, however Petitioner claims this does not override the intent of the legislature, as 3 Class Y felonies of 10 years each could be ran consecutively and not exceed the 50-year term. As could any

number of felony combinations, as long as life was an option which was not imposed. Petitioner claims a violation of the legislature intent, and the due process of law embodied in the United States Constitution Amendment 14 § 1. And the Arkansas Constitution Article 2 § 8, when a defendant is sentenced in excess of 50 years, were the jury was given the option to sentence the Petitioner to Life and chose not to do so. In the present case the petitioner faced multiple counts, which could have carried a life sentence. However even the trial court chose not to sentence him to life. As such, any sentence which exceeds 50 years, is in effect, in excess of the Legislatures intent of a life sentence and enforces a de factor life sentence where jury and court did not impose one. In affirming its denial, the Arkansas Supreme Court quoted statute A.C.A. § 1-2-103 which is ambiguous in every sense, when understanding that if all laws, statutes, codes, and amendments to are to be superseded by the above referenced statute, then which law was petitioner sentenced under. Because Arkansas Supreme Courts understanding of the word supersede, to replace to take the place of, is in fact not the true meaning of the word according to (Bouvier Law Dictionary) 2012, explaining the actual meaning. And the exact statute petitioner was sentenced under, was a previous statute before December 31, 1987 noting the adoption of

the statute. It is obvious Arkansas Supreme Court is involved with a mandatory sentencing scheme, that does not conform to applicable statutory provisions, are law of this courts authority and their own. A hard 80 year sentence in which petitioner was sentenced to, presents the same constitutional dangers that life without parole sentence generates, "no chance for fulfillment outside prison walls, no chance for reconciliation with society, no hope." Quoting 560 U.S. at 79, 130 S. Ct. 2011. Studies show incarceration accelerates the aging process and results in life expectancies substantially shorter than estimates for the general population, Contreras, 4 Cal. 5<sup>th</sup> at 362. And the life expectancy of an African American, which petitioner is, sentenced to life in prison is 58, and petitioner 80 year sentence would require him to do 56 years under the Arkansas 70% law, putting him at the age of 76 when he would go up for parole, is nothing but a life sentence and over the life expectancy. And violative of petitioners 8<sup>th</sup> Amendment right. To uphold petitioner's conviction with contradicting law is a miscarriage of justice, and treason on behalf of the Arkansas Supreme Court, that they did in petitioners sentence. For the reasons stated above this court should grant the writ and find that Supreme Court of Arkansas decision, was contrary to their own law. And also for the reason that, there are hundreds of prisoners in the State of

Arkansas prisons who are sentenced illegally by the trial courts contrariness to abide by a statute, that was constructed by the Legislature, showing intent. This Court will exercise its discretion to notice plain error, only if the error seriously affects the fairness, integrity, or public reputation of judicial proceedings, quoting United v. Olano 507 U.S. 725, 736-37. Noticing Arkansas Supreme Court has caused great affects in fairness, integrity, or public reputation of their own state. For failure to observe its own laws, and worse, its disregard of the charter of its own existence, quoting Mapp v. Ohio 367 U.S. 643, at 659. In continuing a sentencing scheme in their state, to over sentence criminals outside of the color of law. I end with Judge chase and his separate opinion stating: "The laws which protect the liberty of the whole people, must not be violated or set aside in order to inflict, even upon the guilty, unauthorized though merited justice Ex Parte Milligan 71 U.S. 2, 132 (1866).

## **CONCLUSION**

The petition for a writ of certiorari should be granted

Respectfully submitted,

Vasquez Hays

Date: Sep. 29. 75