

25-6066

No. _____

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OCT 28 2025

OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE
SUPREME COURT OF THE UNITED STATES

RODNEY JAMES DILWORTH — 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

RODNEY JAMES DILWORTH

(Your Name)

2661 F.M. 2054

(Address)

TENNESSEE COLONY, TEXAS 75884

(City, State, Zip Code)

(903) 928-2211

(Phone Number)

QUESTION(S) PRESENTED

1. Was petitioner deprived of due process and his right to a fair trial in a fair tribunal, where the trial judge was in a undisclosed sexual relationship with the district attorney, and does the Constitution permit such?

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:

RELATED CASES

EX PARTE RODNEY JAMES DILWORTH

Trial Court No. W296-80697-92-HC6 WR-28,425-12

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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 is unpublished.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 is unpublished.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 A 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 is unpublished.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 habeas court 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 is unpublished.

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 6/4/2025.
A copy of that decision appears at Appendix A.

[x] A timely petition for rehearing was thereafter denied on the following date: 8/14/2025, and a copy of the order denying rehearing appears at Appendix C.

[] 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. § 1257(a).

Further jurisdiction is invoked under Rule 12.4.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

XIV Amendment to the United States Constitution:

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.

STATEMENT OF THE CASE

Petitioner was convicted of attempted murder and unauthorized use of a motor vehicle in a single trial. He was sentenced to 99 and 60 years respectively in Cause Nos. 296-80696-92 and 296-80697-92 in the 296th Judicial District Court of Collin County, Texas with Honorable Verla Sue Holland, presiding. He was convicted on November 18, 1992 and his direct appeals were denied on February 18, 1994.

On January 14, 2025, petitioner filed two habeas applications asserting newly discovered evidence that his trial judge was in a sexual relationship with the duly elected district attorney and failed to disclose such. (CR.11-56, CR.12-60). He also filed memorandums of law to support his applications. (CR.11-79, CR.12-83). The state filed responses to both applications asserting that they should be dismissed as subsequent writs. (CR.11-85, CR.12-89). On February 28, 2025, the trial court issued findings of fact and conclusions of law recommending that the writs be dismissed as subsequent. (CR.11-104, CR.12-110) Petitioner filed objections to the trial court's findings of fact and conclusions of law on March 18, 2025. (SCR.11-16, SCR.12-20)² Petitioner also filed motions to take judicial notice. (SCR.11-20, SCR.12-25). On June 4, 2025, the Texas Court of Criminal Appeals

1. CR.11 refers to the Clerk's Record in WR-28,425-11 and CR.12 to WR-28,425-12 followed by page numbers.
2. SCR. refers to the Clerk's Supplemental Record.

rejected the state's recommendation to dismiss as subsequent in WR-28,425-11 and denied the claim on the merits. Strangely, the court dismissed WR-28,425-12 as subsequent even though both applications were identical and were tried together by the same trial court judge. On July 16, 2025, petitioner filed motions for reconsideration in each writ. Both motions were denied on August 14, 2025. Petitioner now seek certiorari in this Court to review both judgements in that they were tried in the same court in a unitary trial by the same trial judge on the same trial date. (CR.11-39,CR.12-46).

REASONS FOR GRANTING THE PETITION

A. Jurisdiction to hear both cases on the merits.

This Court has jurisdiction to hear both cases together on the merits because W296-80696-92/WR-28,425-11 and W296-80697-92/WR-28,425-12 were tried together. In holding that petitioner satisfied the subsequent writ requirements of Texas Code of Criminal Procedure, Article 11707, § 4 in WR-28,425-11, the Texas Court of Criminal Appeals, by extension, would necessarily mean that petitioner likewise satisfied the same requirements with respect to WR-28,425-12, because they are based on the same legal and factual basis, i.e., petitioner's trial judge's sexual affair with the district attorney. In other words, because both cases were a package deal, they are necessarily and intrinsically intertwined. See Ex Parte Cox, 482 S.W.3d 112 (Tex. Crim. App. 2016) (When multiple convictions are tried in one trial, an error or defect in one requires both be undone). Because the Texas Court of Criminal Appeals reached the merits of WR-28,425-11, this Court can review WR-28,425-12 on the merits under Glossip v. Oklahoma, 604 U.S. 226, 145 S.Ct. 612, 221 L.Ed.2d 90 (2025). (See Appendix E).

B. Merits

Petitioner seeks review under Rule 10 (b) and (c) because the Texas Court of Criminal Appeals has decided an important federal question in a way that conflicts with its own decisions as well as decisions of another state court and in a way that conflicts with relevant decisions of this Court. This Court should decide whether due process permits a judge to preside over a criminal

defendant's trial when she is engaged in a secret sexual affair with the duly elected district attorney.

Petitioner contends he was deprived of due process and his right to a fair trial in a fair tribunal where his trial judge was in a sexual relationship with the duly elected district attorney during his trial and failed to disclose such. A fair trial in a fair tribunal is a basic requirement of due process. In re Murchinson, 349 U.S. 133, 136, 75 S.Ct. 623, 99 L.Ed.2d 942 (1955). "[O]ur system of law has always endeavored to prevent even the possibility of unfairness." Almost a century ago, the Supreme Court explained that "[e]very procedure which would offer a possible temptation to the average man as a judge... not to hold the balance nice, clear, and true between the state and the accused denies the latter due process of law." Turney v. Ohio, 273 U.S. 510, 532, 47 S.Ct. 437, 71 L.Ed 749, 5 Ohio Law Abs. 159, 5 Ohio Law Abs. 185, 25 Ohio L. Rep. 236 (1927). Regardless of any actual bias, a judge may be disqualified due to the mere appearance of impropriety. Texas caselaw supports this fact and the Texas Court of Criminal Appeals has granted relief in such instances. Ex Parte Lewis, 688 S.W.3d 351 (Tex. Crim.App. 2024), In re Syed, 696 S.W.3d 121 (Tex.Crim.App. 2024), and Ex Parte Sanchez, 710 S.W.3d 715 (Tex.Crim.App. 2025). The state of Oklahoma has also granted relief where a sitting judge was in a sexual relationship with a district attorney. Fort v. State, 2022 Ok Cr 12,516 P.3d 690,694 (Okla.Crim.App. 2022), Smith v. Bridges, No. CIV-22-48-HE,2022 U.S.Dist.LEXIS

232465, 2022 WL 1796797 (W.D. Okla. Dec. 28, 2022) and Shelton v. Nunn, No. CIV-21-1082-D, 2022 U.S. Dist. LEXIS 201278, WL 1670844 (W.D. Okla. Nov. 4, 2022).

The undisputed facts establish that the trial judge and the duly elected district attorney were in a sexual affair at the time of petitioner's trial. As stated in petitioner's motion to take judicial notice, Verla Sue Holland and Tom O'Connell, during proceedings in Ex Parte Hood, 2008 Tex. Crim. App. Unpub. LEXIS 853, 2008 WL 494276 (Nov. 19, 2008), admitted under oath that they were in a sexual relationship while the former was judge in applicant's convicting court, and the latter was the duly elected district attorney. Neither petitioner, nor his attorney, would have had any reason to suspect or to have known that petitioner's trial judge and prosecutor were engaged in such compromising conduct; neither were any other attorneys or criminal defendants that appeared in the 296th District Court during the relevant time period. It is evident that the judge concealed her illicit affair from petitioner and counsel at a time in which petitioner could have moved for recusal.

Petitioner's conviction violates the ethos of the constitution and threatens the legitimacy of our justice system by undermining impartiality in appearance. Nothing strikes more at the heart of due process than a trial judge having a sexual affair with the district attorney responsible for every case coming before her court. It is constitutionally intolerable. Judges take an oath to conduct themselves in accordance with the Texas Code

of Judicial Conduct. See Tex. Code Judicial Conduct Cannon 2(A).

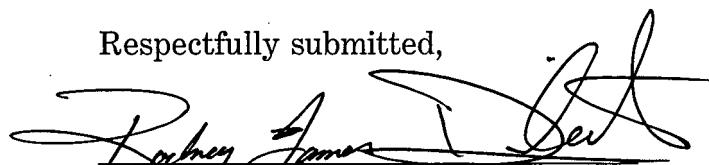
Perhaps this is why the Presiding Judge Schenck stated he would remand the case to the trial court, (Appendix A) , especially in light of Texas cases granting relief in identical circumstances.

Judge Verla Sue Holland and District Attorney Tom O'Connel admitted to their sexual affair but were found to be less than credible as to when the affair commenced and when it ended. This fact is capable of accurate and ready determination by resort to a source that cannot be reasonably questioned.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Rodney James Dilworth
Pro Se

Date: October 28, 2025