25-6130

No. 25____

IN THE
Supreme Court of the United States

ERIC DRAKE,
Petitioner

v.

THE STATE OF TEXAS,
Respondents

ON PETITION FOR A WRIT OF CERTIORARI TO THE TEXAS COURT OF CRIMINAL APPEALS

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

Whether the State's refusal to allow out of state travel for life-saving medical treatment to a defendant on deferred probation violates the Eighth and Fourteenth Amendments.

Whether the Second Amendment prohibit a state from restricting a defendant on deferred probation from possession of firearms to protect his life and property since a deferred adjudication is not a conviction.

Whether it violates the Due Process Clause under the Fifth and Fourteenth Amendments if a judge lacked subject-matter jurisdiction entered judgments and sign orders in a state criminal matter.

PARTIES TO THE PROCEEDING

Petitioner Eric Drake was the Relator below. The Respondent is the State of Texas.

RELATED CASES

In re Eric Drake, No. WR-95,163-03, Texas Court of Criminal Appeals. Mandamus denied. (August 27, 2025)

In re Eric Drake, No. 05-25-00651-CR, No. 05-25-00652-CR, Fifth Court of Appeals, Dallas, Texas. Mandamus denied. (June 11, 2025)

In re Eric Drake, No. 05-25-00542-CR, No. 05-25-00543-CR, Fifth Court of Appeals, Dallas, Texas. Mandamus denied. (May 12, 2025)

In re Eric Drake, No. 05-25-00360-CR, No. 05-25-00361-CR Fifth Court of Appeals, Dallas, Texas. Mandamus denied. (May 2, 2025), Rehearing denied. (May 5, 2025)

State of Texas v. Eric Von Drake, Cause Numbers: F-22-76307 & F-24-76901, 204th Judicial District Court, Dallas County, Texas.

TABLE OF CONTENTS

APPENDIX OF EXHIBITS

TABLE OF AUTHORITIES

PAGE

TABLE OF AUTHORITIES CONTINUED

PAGE

U.S. CONSTITUTIONAL PROVISIONS

TEXAS STATUTES AND CODES

PETITION FOR A WRIT OF CERTIORARI

Petitioner, Eric Drake, respectfully petitions for a Writ of Certiorari to review the judgment of the Texas Court of Criminal Appeals.

OPINIONS BELOW

The order of the Texas Court of Criminal Appeals denying Petitioner's petition for a writ of Mandamus is not reported and is included in the Appendix. (**App. 1a, 2a**). The orders of the Texas Fifth Court of Appeals (Dallas) denying Petitioner's three separate petitions for a writ of Mandamus are also not reported. 05-25-00651/0652-CR, Memorandum Opinion Denied/Do Not Publish (June 11, 2025) (**App.3a**); 05-25-00542/00543-CR, Memorandum Opinion Denied/Do Not Publish (May 12, 2025) (**App.4a**); 05-25-00360/00361-CR, Memorandum Opinion Denied/Do Not Publish (May 5, 2025) Rehearing Denied (**App.5a**) and (**App.6a**) Denied/Do Not Publish.

JURISDICTION

The Texas Court of Criminal Appeals, the highest court in the state of Texas for criminal matters, denied Petitioner's application for a writ of Mandamus, which challenged the jurisdiction of the trial court and the constitutionality of his conviction. That order was entered on August 27, 2025. This Court has jurisdiction to review the final judgment of the highest court of a state under 28 U.S.C. § 1257(a). This writ is therefore timely and properly brought before this Honorable Court on an emergency basis.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

U.S. Constitution, Amendment VIII Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted. U.S. Constitution, Amendment XIV, Section 1, "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."

Texas Rule of Civil Procedure 18a(f)(1)(A): If a motion to recuse is filed, the judge must either recuse or refer the motion. The judge "shall make no further orders and shall take no further action in the case" until the recusal motion is decided.

STATEMENT OF THE CASE

This case presents a catastrophic failure of the Texas judicial system, where state courts have refused to address a fundamental, non-waivable jurisdictional defect that renders Petitioner's conviction and ongoing probation void. This failure is not a mere procedural misstep but a structural collapse of due process, allowing a man to be deprived of his liberty by an individual with no lawful authority to act as a judge in his case. The surprising point of this case is that the Fifth Court of Appeals (Dallas) and Texas Court of Criminal

Appeals not only allowed this injustice to continue but the justices supported these unconstitutional depraved actions. As a result, Petitioner, Eric Drake, was unconstitutionally and inhumanly coerced into a guilty plea while suffering from a severe upper respiratory illness, *see* **App.7a**, and now remains unlawfully restrained and is currently denied access to urgent medical care in violation of the Eighth and Fourteenth Amendments. (**App.31a–37a**). Even though Petitioner has not been found guilty of any crime (deferred), he is prohibited from possessing firearms in violation of the Second Amendment.

Petitioner was charged with stalking in Dallas County, Texas. The case was fraudulent from its conception. Once local law enforcement was prepared to manufacture evidence and witnesses against the Petitioner, prosecutors Shawnkeedra Houston-Martin and Robin Ogbonna conspired with the police to obtain a conviction. But the state's evidence was not sufficient to prove its case against the Petitioner, hence state actors resulted to violating the Constitution and fraud. However, jurisdictional issues rendered Petitioner's plea, sentencing and probation orders void. State actor's violated Petitioner's Constitutional rights to coerce him to plead guilty.

A. <u>State Courts Refusal to Address Jurisdictional Defect and Petitioner's Medical Crisis</u>.

Following his plea, Petitioner filed two motions to withdraw his plea and to vacate the void judgment, all predicated in part on Judge Michael Snipes'

lack of jurisdiction and the fact Petitioner's plea was an unconscionable—*brutal* act of unConstitutional Coercion.

Petitioner sought relief from the state district court, and the appellate courts, but to no avail. Petitioner not only raised jurisdictional issues but he also requested assistance because of his urgent medical condition that, doctors described as critical. After filing four original petitions in the state appellate courts, including the highest court in Texas—all sought relief were denied.

B. Ongoing Denial of Access to Medical Care.

As a condition of his void community supervision, Petitioner is forbidden from traveling outside Dallas County. He suffers with a severe ophthalmologic disorder that has caused temporary loss of sight on numerous occasions. The Petitioner's dentist is outside of Dallas County—yet he is prevented from this care. The state courts, from the trial level to the highest court of appeals have refused to grant him permission to travel out-of-state for urgent medical treatment. This demonstrates *deliberate indifference* to his serious medical and dental needs, which would subject him to detention in a state prison if he does not comply with the void order of probation; even to seek, life-saving help.

While on deferred probation, the State imposed mandatory mental health counseling for schizophrenia, bipolar, and suicide; which is supervised by a mental-health state probation officer, with compulsory urine-drug (UIA)

testing—none of which are medically indicated, nor does the state of Texas have any evidence or expert witnesses that could support such requirements. Petitioner has no history of substance abuse or mental impairment.

REASONS FOR GRANTING THE PETITION

This case is ***not*** about a mere error in trial procedure; it is about the structural collapse of due process. The Texas courts have allowed a conviction to stand on the foundation of a void judgment, entered by a judge with not a shred of legal authority, and secured through unconstitutional coercion. By refusing to address the foundational issue of jurisdiction, the state's highest courts have sanctioned a violation of the most basic principles of law and have trapped Petitioner in a procedural 'catch-22' where he is bound from challenging his unlawful restraint. State appellate courts have blocked every effort to nullify the void judgment. Review by this Court is necessary to correct this grave injustice and to clarify fundamental constitutional protections.

Medical experts have warned Petitioner that his medical condition is rapidly deteriorating and will certainly precipitate a cerebrovascular accident (stroke) that could be fatal unless timely, specialized testing and treatment are obtained. These specialists that the Petitioner wishes to see are located in the states of Missouri and Indiana, which is well outside the borders of Texas.

Petitioner attempted to obtain assistance on the district court level by

petitioning the presiding district judge, Audra Riley, to hear his critical motions because visiting judge, Michael Snipes did not possess jurisdiction. Judge Riley of Criminal District Court Number 3 in Dallas County refused to hear the urgent motions, and referred Petitioner back to Judge Snipes even after explaining to her that he did not possess jurisdiction.

A. The Improper Assignment of Visiting Judge Michael Snipes

Allegedly, Criminal District Judge Tammy Kemp of the 204th District Court assigned Judge Snipes to the Petitioner's criminal case. (**App.38a, L 7–15**). But as argued extensively in the district court and appellate courts through Mandamus petitions, Judge Kemp could not legally assign Judge Snipes because the Petitioner's recusal was pending against her. The Tex. R. Civ. P., Rule 18a prevents a judge from acting any further in a proceeding other than to recuse or refer. Orders issued while a recusal is pending are void.

Judge Kemp has a well-grounded history of unethical conduct, which also extends to her bailiffs, probation staff, and her clerks. On July 31, 2024, Judge Kemp rose from the bench, claiming she needed to retrieve her book to set a trial date. She then summoned former Dallas prosecutor Keith Harris to the courtroom where the Petitioner and Dallas Assistant District Attorneys Shawnkeedra Houston-Martin and Robin Ogbonna were waiting. Mr. Harris whispered to Mr. Ogbonna that Judge Kemp wanted to speak with him alone, *(ex parte)* without the Petitioner being present. Ms. Houston-Martin remain-

ed in the courtroom to watch Petitioner. In fact, Judge Snipes admitted in an October 28, 2024 hearing that Judge Kemp assigned him to Petitioner's case: Cause F-22-76307, Transcript excerpt, P. 15, L 6-17. (**App.38a**)

THE COURT: I was appointed to this case by Judge Tammy Kemp.

THE DEFENDANT: Well, Judge Kemp can't appoint you to --

THE COURT: Yes, she can.

On October 18, 2024, Judge Kemp recused herself from the Petitioner's case. However, after Judge Snipes confirmed that the Petitioner was correct that, Judge Kemp could not legally assign him, because it violates Texas law.

Next, Judge Ray Wheless came to the rescue by falsifying an order of assignment in May of 2025. Wheless order suggests that he assigned Judge Snipes on 08/22/2024. But Judge Snipes' actions nullified Wheless' handiwork through an email he sent to Wheless on 09/13/2024 at 1:37 p.m., *see* **App.25a**, requesting Wheless to grant him permission to preside over Petitioner's case. Why would Snipes need to obtain permission on 09/13/2024, if Judge Wheless' 08/22/2024 assignment order was authentic? Snipes email to Wheless stated:

I already accepted the transfer of Mr. Drake's case to me and I am happy and privileged to take the case. I have already presided over at least two hearings. (Signed Senior Judge Mike Snipes)

Furthermore, Judge Wheless would have answered Judge Snipes on September 13, 2024 and informed him that he had already issued the assignment, which Judge Wheless did not respond to Judge Snipes request.

Accordingly, the guilty plea must be vacated on jurisdictional grounds. Even if the plea was voluntary—which it wasn't, this in of itself does not waive a jurisdictional defect, for the reason that *when a court lacks jurisdiction over any count in a multi-count plea, the entire plea is void*. *Duron v. State*, 915 S.W.2d 920 (Tex. Ct. App. 1996). Judge Snipes had no legal authority to conduct the Petitioner's January 27, 2025 plea, (**App.14a**) or the sentencing on March 27, 2025, (**App.15a**) or to sign the order of probation on May 8, 2025 and then backdate the order into the clerk's record. *See* **App.18a–19a**.

I. Texas Courts' Refusal to Address a Fundamental Jurisdictional Defect is a Violation of Due Process and Conflicts with This Court's Precedents on Structural Error.

A judgment rendered by a court that lacks jurisdiction is "void for every purpose" and "must be regarded as a nullity." *Johnson v. Zerbst*, 304 U.S. 458, 468 (1938).

The presence of a judge who lacks authority over the case is a structural error of the highest order—it is a defect affecting "the framework within which the trial proceeds, rather than simply an error in the trial process itself." *Arizona v. Fulminante*, 499 U.S. 279, 310 (1991).

Such errors defy harmless-error analysis because the "entire conduct of the trial from beginning to end is obviously affected." ***Id.*** at 309-10. The actions of visiting judge, Michael Snipes, were not those of a court, but of an individual acting under the mere *color of law*, making every order he issued, including the final sentencing order, and the order of probation void *ab initio*.

The Due Process Clause of the Fourteenth Amendment does not merely protect against erroneous deprivation of liberty; it protects against deprivations based on a proceeding that is itself illegitimate. When Petitioner presented the Texas courts with unrebutted, on-the-record evidence of this fundamental jurisdictional defect, the state judiciary had a constitutional obligation to provide a remedy. The state's obstructionist tactics extended even to Petitioner's First Amendment rights. The intermediate appellate court interfered with his right to self-representation and meaningful court access by its continual denying his Mandamus petitions, effectively silencing his *pro se* voice. This pattern of erecting procedural barriers, culminating in the summary postcard denial from the Texas Court of Criminal Appeals, transformed judicial inaction into an act of sanction. The Texas courts have effectively ratified the void judgment and perpetuated an unlawful restraint on Petitioner's liberty.

This Court has recognized that the suspension of a remedy for a clear

constitutional violation can itself be a constitutional violation. See *Boumediene v. Bush*, 553 U.S. 723 (2008). By refusing to correct a structural error so profound that it rendered the entire proceeding a nullity, the Texas judiciary has failed to provide the "meaningful review" that due process requires. This Court should grant *certiorari* to reaffirm that state courts cannot, consistent with the Fourteenth Amendment, ignore and thereby validate judgments that are constitutionally void.

II. Due-Process Violation

Judgments entered without jurisdiction are void under the Fourteenth Amendment's substantive due-process clause. Pursuant to *Williams v. Florida*, 399 U.S. 78 (1970), this case holds that a court lacking authority cannot deprive liberty. *Wengerd v. Rinehart*, 114 Wis. 2d 575, 338 N.W.2d 861 (Wis. Ct. App. 1983) – a judgment is void when a court's jurisdiction is deficient or when it denies due-process rights.

A. Lack of Jurisdiction and Void Judgment

Orders and judgments entered by a judge who lacks subject-matter jurisdiction is a legal nullity under Texas law. *In re Marriage of McClure*, 350 Tex. 121, 125 (2015) holds that "a judgment entered without jurisdiction has no legal effect and may be challenged at any time." This Court has similarly recognized that a court may declare such orders void when jurisdic-

tion is absent, *Cottrell v. St. John's County*, 877 F.2d 1040 (10th Cir. 1989).

Statutory authority for this Court to address the void judgment derives from its original and appellate jurisdiction under 28 U.S.C. §§ 1251 (original jurisdiction over writs of certiorari) and § 1253 (appellate jurisdiction over interlocutory orders of a State court), together with the All Writs Act, 28 U.S.C. § 1651, which empowers the Court to issue injunctions "necessary or appropriate in aid of" its jurisdiction.

Enforcing a judgment that the Court itself can deem void violates the Fourteenth Amendment's Due-Process Clause because it deprives the Petitioner of liberty without lawful authority. The combination of (a) the judge's lack of jurisdiction, (b) the resulting void nature of the order, and (c) the constitutional due-process violation provides a solid basis for this Court to render the Deferred Adjudication Order void and enjoin its enforcement.

B. Previous Mandamus Filings For Speedy Trial And Dismissal

Petitioner filed Mandamus petitions for a *speedy trial* and for dismissal of the indictment in both the Fifth Court of Appeals (Dallas) Cause No. 05-24-00342-CV and the Texas Court of Criminal Appeals Cause No. WR-95,163-02. The Fifth Court of Appeals denied the Mandamus on November 1, 2024, while the Texas Court of Criminal Appeals issued a procedural postcard denial of the Mandamus on May 29, 2024.

In the prior original petitions, Petitioner sought a *speedy trial* and *dismissal* because the State had not tried him in over 22-months. The district courts would not grant a hearing on Petitioner's motion to dismiss to hinder dismissal of the indictment, and to allow the prosecutors unlimited time.

The District Attorney's Office in Dallas, Texas was unable to prove their case before a jury that the Petitioner was guilty of any crimes. Consequently, before the state of Texas would dismiss the fraudulent case that is litigated by a *pro se* defendant who is African American, the state through its attorneys turned to conspiring with Judge Snipes—to take Petitioner's liberty—to create immense mental and physical punishment and to force him into a guilty plea.[1]

The Petitioner resigned to pleading guilty; *see* (**App.14a**), because of a debilitating sickness, and the fact that Dallas County Jail medical staff would not transport him to *Parkland Hospital* to undergo a simple X-ray of his chest that would have revealed he had contracted pneumonia while in custody.

The appellate court's denial of Petitioner's timely previously filed Mandamus requests—despite clear statutory authority under the *Speedy Trial Act* (18 U.S.C. § 3161 *et seq.*) and analogous Texas provisions—demonstrates at

[1]Attorney Franklyn Mickelsen advised Petitioner that, "Judge Snipes was going to have him arrested." When the Petitioner asked Mr. Mickelsen for what reason would Judge Snipes arrest him, Mickelsen responded by saying, "Judge Snipes don't need a reason to have you arrested." Mickelsen then said, "You don't understand the criminal justice system."

minimum *bad faith* inaction, but in reality, state criminal district judges conspired to deprive the Petitioner of his constitutional right to a *speedy trial* pursuant to the Sixth Amendment or dismissal of the indictment to assist the prosecutors. Moreover, according to *Smith v. Gohmert*, 962 S. W. 2d 590 (Tex. Crim. App. 1998) (holding mandamus is appropriate to compel a trial court to honor a *speedy trial* claim when the defendant's right is being thwarted).

The combination of (a) State's refusal to act on previous Mandamus petitions for a *speedy trial—prior to the coerced plea*, (b) the subsequent forced guilty plea while petitioner was ill with pneumonia in custody, (**App.7a**), (c) continued enforcement of a void order underscores the *urgency* of this Court's intervention. Without immediate proper medical care—a stroke will occur.

III. The Coercion of Petitioner's Guilty Plea Through Unconstitutional Confinement And False Arrest Violates Established Federal Laws.

In order for a guilty plea to be valid, it must be a "voluntary and intelligent choice among alternative courses of action open to the defendant." *Parke v. Raley*, 506 U.S. 20, 29 (1992). The "totality of the circumstances" must demonstrate that the plea was not induced by threats, misrepresentation, or promises that are by their nature improper. *Brady v. United States*, 397 U.S. 742, 755 (1970). The circumstances surrounding the Petitioner's plea demonstrate a textbook case of unconstitutional coercion.

The prisoner of war tactics began with the state's violating the Eighth Amendment. The purpose of bail is to ensure the accused attendance at trial, and "bail set at a figure higher than an amount reasonably calculated to fulfill this purpose is 'excessive' under the Eighth Amendment." *Stack v. Boyle*, 342 U.S. 1, 5 (1951). The $500,000 bail, predicated on a fraudulent warrant, served no legitimate purpose.[1] Its true intent, revealed when it was instantly converted to a PR bond post-plea. *See* **App.39a, January 27, 2025 Plea: P. 8, L 1 —5.** In 32-years, *pro se* Petitioner has never missed a court date.

THE STATE: I was told by Mr. Ogbonna the State would be opposed to a PR bond or any lowering of the bond amount.

THE COURT: Ms. Raza, here's how I'm going to handle that. I 'm going to give him a PR bond and I'll put over State's objection. Okay?

Petitioner's confinement was a conspired effort between visiting judge, Michael R. Snipes, and Dallas Assistant District Attorneys Robin Ogbonna and Shawnkeedra Houston-Martin.

This Eighth Amendment violation was compounded by the state's *deliberate indifference* to Petitioner's acute case of pneumonia, which left him physically and cognitively impaired at the time of the plea. (**App.7a**) Judge

Michael Snipes and Prosecutors Ogbonna and Houston-Martin—maliciously deprived Petitioner of his rights to a reasonable bail and due process. Their conduct constitutes violations of federal law under 18 U.S.C. § 242, which was designed to prevent the *consciously-deliberate* deprivation of any constitutional or statutory right by anyone acting *under color of law*. A plea extracted under such conditions cannot be considered voluntary. This Court should grant *certiorari* to make clear that a plea obtained through such a confluence of state sanctioned duress, conspiracies, false arrests, torture, fraud, and fundamental jurisdictional error is a *per se* violation of the Due Process Clause.

To defeat Petitioner's *pro se* defense, Judge Snipes and state prosecutors engaged in a scheme of cruelty that violated multiple Constitutional provisions. On September 13, 2024, prosecutors filed a bogus motion to hold Petitioner's bond insufficient, *see* **(App.29a–30a)** falsely claiming he failed to appear for the September 13th hearing. Judge Snipes, the prosecutors, and at least two other attorneys were present and witnessed Petitioner's presents at that very hearing. Despite having direct personal knowledge that the allegations in the prosecutors pleading were false, *see* **(App.29a)**, three days later, on September 16, 2024, visiting judge, Michael Snipes, issued a warrant for Petitioner's arrest based on the prosecutors' fraudulent bail motion. **(App.27a)**

On October 29, 2024, during a status conference hearing, Petitioner

objected to Visiting Judge Michael Snipes while in custody as he had repeatedly throughout the case. See excerpt of transcript **(App.21a, L 7–10)**

THE COURT: Mr. Drake, do you wish to be heard?

THE DEFENDANT: I do.

Well, the first thing I'd like to say is that I object to you even hearing this case. I don't think you have judicial authority nor do you have the jurisdiction to hear this case.

Petitioner also complained to the court that his hands were cuffed on each side and he was unable to write or take notes during court hearings. This was to prevent the Petitioner from keeping his personal record of the court, the many court reporters, and events, which was a violation of his First Amendment, Due Process and other Constitutional rights. Oct. 26, 2025, **(App.23, L 4—25)**. Some court reporters has refused to provide transcripts of hearings, and other reporters alter what Snipes said to me to protect him.

THE DEPUTY SHERIFF: Oh, you would like your hands to be uncuffed ...

THE DEFENDANT: Judge, this is ridiculous ... All right. Now, you have humiliated me, falsely arrested me, falsely filed a warrant for my arrest, and I'm going to fight this all the way to the U.S. Supreme Court.

Facing a critical illness—pneumonia (**App.7a**), which Petitioner was unaware he had pneumonia until he was released. Nevertheless, he knew that he was grievously sick. Petitioner's appointed counsel advised him, "the only way" to obtain professional medical treatment was to plead guilty. Petitioner was pressured to plead guilty on January 27, 2025 to obtain medical help and preserve his life. (**App.14a**) But compare Petitioner's defiant response on October 29, 2024, where he rejected the exact plea offer by the State, because at that time, he wasn't infected with pneumonia. (**App.22a, L 18—23a**)

The transcript of Petitioner's plea before Judge Snipes reveal that he was so ill that he could barely speak. Judge Snipes said on the record that the Petitioner was somewhat ill and that he may have to assist his answers. However, neither the district court nor the Petitioner's appointed attorney requested that he be immediately transported to a hospital. Factually, Judge Snipes and the appointed attorney left the Petitioner confined in an extreme cold jail cell—grievously ill, with a severe upper respiratory infection for three additional weeks after he pled guilty.

IV. The State's Final Denial of Medical Access Constitutes Cruel and Unusual Punishment.

The Eighth Amendment, applicable to the states through the Fourteenth Amendment, prohibits "deliberate indifference to serious medical needs of prisoners." *Estelle v. Gamble*, 429 U.S. 97, 104 (1976). This protection is not

limited to the incarcerated; it extends to individuals, like the Petitioner, whose liberty is restrained by the state through probation and who is dependent on the state for permission to obtain necessary medical care. The state's restriction on Petitioner's travel is the direct cause of his inability to be examined by doctors who are specialist, but practice outside of Texas.

Deliberate indifference is established by showing a defendant was "aware of facts from which the inference could be drawn that a substantial risk of serious harm exists, and he must also draw the inference." *Farmer v. Brennan*, 511 U.S. 825, 837 (1994). Petitioner's plea for medical help was not merely ignored at the district court level; it was presented directly and unequivocally to the (TCCA) Texas Court of Criminal Appeals. That court was made explicitly aware of his serious health conditions, the necessity of out-of-county and out-of-state testing and treatment, and the ongoing pain and risk of permanent injury, including blindness and possible death.

On page 4 of the Petitioner's Mandamus filed in the Texas Court of Criminal Appeals, Cause No. WR-95, 163-03 he pled the following in ¶ 4:

"Relator has an urgent need to obtain medical testing, and medical and dental treatment . . ." Relator is suffering from episodes of Transient Loss of Vision, which treating physicians have determined may represent mini-strokes. The imminent, life-threatening nature of these medical episodes

necessitates immediate diagnostic testing and treatment that is not available through any medical provider within Dallas County for the Relator. See App.18.'"

Petitioner's urgent request for assistance to the TCCA through his writ of Mandamus was denied. *See* **(App.1a, 2a)** The TCCA refused to even provide a written order, but instead only a postcard, which is deliberate indifference.

Furthermore, pursuant to *West v. Keve*, 571 F.2d 158 (7th Cir. 1978), and *Rosado v. Alameida*, 349 F. Supp. 2d 1340 (E.D.N.Y. 2004), if we apply the two-pronged *Gamble* test—(1) a serious medical need, and (2) deliberate indifference; the Petitioner's circumstance of untreated ophthalmologic disorder, which threatens death by stroke, and the courts reaction—satisfies both prongs. The Fourteenth Amendment's substantive due-process component likewise bars state actions that "arbitrarily deprive" an individual of a fundamental interest in health and life *Baze v. Rees*, 553 U.S. 35 (2008).

The Petitioner attempted to redress the urgent need for medical assistance in his motion to reconsider to the TCCA, but to no avail. **(App.1a)**

This Court should grant *certiorari* to address the application of the Eighth Amendment in this context and hold that when a state's highest court is directly informed of a serious critical medical necessity that was created by a condition of supervision and the state refuses to provide a remedy, it ratifies a policy of *deliberate indifference* in violation of the Constitution.

V. The All Writs Act And The Younger Abstention Do Not Bar Relief Because Extraordinary-Circumstances Exception Applies

Under 28 U.S.C. §§ 1651-1652, this Court may issue an injunction "necessary or appropriate in aid of" its jurisdiction. The present case demands such relief to preserve the Court's ability to review the void judgment and to prevent irreparable injury. As such, the Petitioner have simultaneously filed a request for emergency injunctive relief that is also pending before this Honorable Court.

While *Younger v. Harris* ordinarily requires federal abstention from interfering with state criminal proceedings, the "extraordinary circumstances" exception is triggered when the state is unwilling or unable to remedy an imminent, irreparable injury. Here, the State's refusal to allow out-of-state medical care creates a life-threatening condition, and the state of Texas officials knowingly enforcing a void probation order. This Court has applied this exception in *Arkebauer v. Kiley* (9th Cir. 1993), *Gould v. Lombardo* (D.Nev. 2020), and *Sweeten v. Sneddon* (2d Cir. 1972). The actions of the State in this case is knowningly, willingly and intentional.

The Court has recognized a narrow "extraordinary-circumstances" exception for cases where the state action threatens irreparable injury that the state cannot remedy. *Younger v. Harris*, 401 U.S. 37 (1971).

In *Arkebauer*, the district court expressly noted that "where the *plaintiff's* life is at stake, the equitable power of the federal courts to enjoin the state proceeding is triggered." The Texas probation office's categorical refusal to assist the Petitioner, despite the Petitioner's pleas and medical evidence of possible death, is analogous to the harassment identified in *Arkebauer*, 751 F. Supp. 783 (N.D. Ill. 1990).

Furthermore, the court's opinion in *Gould v. Lombardo*, No. 20-5263 (D. Nev. May 28 2020) reiterates that the "extraordinary-circumstances" exception is triggered in the Petitioner's case because of the life-threatening medical emergency satisfies that requirement. The Petitioner's physicians have warned that a "stroke" ***will*** occur if he does not take immediate steps to obtain proper treatment and testing. The probation office's unconcern dismissal creates the precise "great and immediate" danger contemplated in *Gould.*

The Second Circuit held that federal intervention is proper when a state prosecution threatens irreparable injury, such as a danger to Petitioner's life, and when the state is as in this case before the Court; unwilling to protect the Petitioner. The denial of 4-Mandamuses to the appellate courts in Texas is a clear display of unwillingness. And the Texas probation order, upheld by the state court, when the appellate courts understood the order was void, is a clear example of the state's unwillingness to protect Petitioner's life. *Sweeten v.*

Sneddon, 463 F.2d 713 (2d Cir. 1972). Even if *Younger* were otherwise applicable, *Dombrowski v. Pfister* creates an exception when state action is undertaken in *bad faith* to chill constitutional rights. The State's continued enforcement of a known-void order, despite the Petitioner's constitutional claims, satisfies the *Dombrowski* exception.

How the Present Facts Satisfy All Three Precedents

Requirement	*Arkebauer*	*Gould*	*Sweeten*	Petitioner's Situation
Bad-faith/harassment by the state	Yes – state's categorical refusal despite medical evidence	—	—	Probation office's refusal is a deliberate obstruction of life-saving care
Great and immediate threat of irreparable injury	—	Yes – life-threatening medical emergency	—	Physicians' affidavits warn of imminent stroke/death
State unable or unwilling to protect the defendant	—	—	Yes – state court denied relief and affirmed the restriction	Texas appeal courts denied three mandamus petitions; the TCCA denied Petitioner's mandamus

Further, Petitioner's motions to reconsider filed with the Court of Appeals and Texas Court of Criminal Appeals were denied, leaving him without any state remedy. The Texas Appeals court's refusal to assist is a deliberate indifference to Petitioner's medical needs. All three cases converge on the principle that when a state-initiated restriction creates an immediate threat to life that the state cannot cure, federal courts may intervene. And in this case, *Younger* would not preclude immediate intervention because all of the orders by the state are void. Hence, Petitioner's circumstances satisfy each prong, making the extraordinary circumstances exception applicable. Dr. Larry Taub warned the Petitioner that his most recent symptoms are signs of a transient ischemic attack (TIA). *See* **App.9a–12a**. Dr. Oliver Hunter also advised immediate professional medical care, testing and treatment by a neuro-ophthalmologist and cardiologist/vascular specialist. *See* **App.56**.

The Petitioner contends that the probation office's refusal to allow travel out of state to be examined by medical specialist constitutes a violation of his Fourteenth-Amendment due-process rights and his substantive right to receive medically necessary care. The refusal creates an immediate, disruptive, and irreparable threat to his life—an injury that the state court is unwilling to prevent. It is not the fact that the State cannot cue the problem, but the state of Texas deliberate indifference is the obstacle.

On October 3, 2025, Petitioner was compelled to seek emergency medical care after a sudden episode of loss of sight, which lasted for about 20-minutes.

Petitioner drove himself to a local hospital after his sight returned. The ER immediately evaluated the petitioner's symptoms and advised him that the signs he experienced are consistent with an imminent stroke. Thereafter, on October 6, 2025, Petitioner had another attack that was more aggressive, causing the Petitioner's left arm, hand, and upper chest to become numb. These are stroke-like symptoms. Petitioner has two appointments with specialist. Air-flight and other accommodations are arranged. But Petitioner, needs this Court's assistance for an order to travel to be examined a by these doctors.

VI. Restriction on Out-of-State Travel Violates the Right to Travel.

The Constitution guarantees a fundamental right "to move from one State to another." This right is rooted in the *Privileges and Immunities Clause* of Article IV, § 2, and is reinforced by the Fourteenth Amendment's Due-Process Clause. This Court first articulated the breadth of this liberty in *Saenz v. Roe*, 523 U.S. 989, 1002 n.4 (1998), holding that the right to travel is a protected liberty that states *may not* burden without a constitutionally permissible justification.

VII. Fourteenth Amendment Guarantees Substantive Due-Process Protection Against Arbitrary Conditions of Probation.

The Fourteenth Amendment's Due Process Clause protects "a liberty interest ... from arbitrary governmental interference." *Washington v. Harper*, 494 U.S. 210 221 n.5 (1990). Conditions of probation are restrictions on liberty

therefore, they must be justified by a legitimate governmental interest and must be narrowly tailored. *Gagnon v. Scarpelli*, 411 U.S. 778, 783 (1973) (recognizing that probation conditions "must be reasonable and related to the offender's rehabilitation").

Here, the Dallas County Probation Office imposed mental-health counseling and UID testing without any medical diagnosis or evidence of drug dependence or even a history of mental health disorders or substance abuse of anykind. This Court has repeatedly held that the government may not impose medical treatment absent a showing of necessity. *Roe v. Wade*, 410 U.S. 113, 125 (1973) (recognizing the state's interest in protecting health must be balanced against individual liberty). In the probation context, *Ortiz v. State* (Tex. Ct. Crim. App. 1992) held that "the trial court may not order psychiatric treatment unless a qualified medical professional has established a need." In this case before the Court; Petitioner has never used tobacco, or experimented with any type of illegal drugs. He has no dependency on prescribed drugs or alcohol, or other similar substances. Because no qualified physician or psychiatrist have evaluated Petitioner regarding his mental-health, or for substance abuse, the state's actions are an arbitrary condition that violates substantive due-process.

VIII. Texas Statutory Authority Does Not Permit Imposition of Unsubstantiated Mental-Health or Drug-Testing Conditions

Forced counseling without medical diagnosis from a qualifed heathcare

provider is a non-neutral intrusion into bodily autonomy, violating the substantive liberty interest protected by the Fourteenth Amendment. *Washington v. Harper*, 494 U.S. 210 (1990) and *Cruzan* further hold that compelled medical treatment absent a qualified diagnosis is unconstitutional.

The mandatory, suspicionless urine-drug testing (UID) condition is a search of the person. This Court has held that extracting bodily fluids for analysis constitutes a search subject to Fourth-Amendment scrutiny. *Schmerber v. California*, 384 U.S. 757 (1966) (recognizing that taking blood—or, by analogy, urine—for testing is a search).

Petitioner has no documented history, no diagnosis, and there is no evidence of drug dependence or mental health disorders. This distinction is critical. Tex. Health & Safety Code § 614.001-.026 authorizes the imposition of mental-health treatment only when a qualified medical professional determines that the offender "requires such treatment." The State of Texas is knowingly violating Petitioner's Fourth Amendment right. See *National Treasury Employees Union v. Von Raab*, 489 U.S. 656 (1989); *Skinner v. Railway Labor Executives' Ass'n*, 489 U.S. 602 (1989); *Schmerber v. California*, 384 U.S. 757 (1966).

Consequently, the order exceeds the authority granted by §§ 42A.07 and 614. More importantly, the judge who ordered these invasive tests, visiting judge, Michael Snipes, did not possess proper assignment or jursidiction. Hence, the probation order is void.

The State of Texas's imposition of mental-health and drug-testing requirements is driven by financial incentives. First, by referring thousands of defendants to various clinics, Dallas County likely receives referral fees. Secondly, the system creates a mechanism that encourages defendants to return to jail or prison, generating substantial revenue from the cost of housing inmates. Third, Dallas County imposes a 2-percent surcharge on probation fees, even when the defendant pays in cash. Additionally, failure to attend a mandated session allows the probation officer to incarcerate the defendant, all of which, produce substantial profits for Dallas County and the state of Texas (through jail bookings) and (through prison labor).

IX. Restrictions On Firearms For Deferred Probationer's Is A Violation of Second Amendment Rights

Just a few days ago, theives destroyed property were the Petitioner reside. This action made the Petitioner realize that he is unable to protect his himself or his property. The Dallas Police normal turnaround time is 10-hours and many times officers migh will appear the next day for theft crimes.

As set forth herein, I am on deferred probation and *have not* been found guilty of any crimes. The state's entire case was founded on false and misleading warrants, witnesss, and evidence to the Petitioner's detriment.

Texas Constitution guarantees "the right of every person to keep and bear arms, for the defense of himself and the State." Tex. Const. art. I, § 23.

The provision is broad and, like the federal Second Amendment, is subject to only limited, historically-based restrictions.

This Court recognized that the Second Amendment protects an individual's right to keep and bear arms for self-defense. *District of Columbia v. Heller*, 554 U.S. 570, 580 (2008). The Second Amendment is incorporated against the states through the Fourteenth Amendment. *McDonald v. Chicago*, 561 U.S. 742, 756 (2010). Consequently, Texas' firearm restrictions must be consistent with the federal constitutional guarantee. *United States v. Rahimi*, 59 F.4th 163 (5th Cir. 2023).

The U.S. Attorney's Office for the Western District of Texas made the comment that the federal prohibition on firearm acquisition by persons under felony indictment "does not interfere with the Second Amendment because it *does not disarm* felony indictees who already had guns and does not prohibit possession or public carry." Petitioner will also direct the Court's attention to another note worthy case in the context of disablities and firearms: *United States v. Rahimi*, 59 F.4th 163 (5th Cir. 2023).

The State of Texas, by treating a deferred-probationer as a convicted felon for purposes of § 46.04, creates a structural denial of due process. The Texas courts have refused to recognize that a deferred adjudication is not a conviction, thereby imposing a disability that the Constitution does not per-

mit. This denial is fundamental because it deprives the petitioner of a core constitutional *right–of–self–defense* without any legitimate procedural safeguard. The state's refusal to correct this error, despite clear statutory and case-law authority, renders the state corrective process fundamentally inadequate and warrants Supreme Court intervention.

X. The Egregious Pattern of Misconduct Warrants Dismissal With Prejudice, Barring Retrial

The cumulative effect of the state's actions in this case constitutes a pattern of outrageous government conduct so severe and pervasive that it violates the fundamental fairness guaranteed by the Due Process Clause. This is not a case of simple trial error, but one where state actors built their case upon a foundation of fraud and coercion, culminating in a judgment that is void from its inception. The state's pattern of misconduct began long before the events of 2024, originating in 2022 with an arrest warrant instigated by a Dallas police detective who conspired with the complaining witnesses. After significant delay and Petitioner's demand for a trial *via* a writ of mandamus to the Texas Court of Criminal Appeals, Cause No. WR-95,163-02, the State, unprepared to proceed, filed a procedurally deficient motion for a continuance.

When Petitioner appeared for trial and the prosecutors did not, the State, facing the likelihood of a loss against a *pro se* defendant, escalated its

tactics. Prosecutors filed a baseless motion to hold Petitioner's bond insufficient on September 13, 2024. Two days later, Judge Snipes, acting without any lawful jurisdiction, issued a fraudulent arrest warrant based on the prosecutors bogus motion. This initial fraud was compounded by the imposition of a punitive, unconstitutional bail designed *not* to ensure appearance but to inflict punishment and manufacture a guilty plea. See *United States v. Batres-Santolino*, 521 F. Supp. 744 (N.D. Cal. 1981) (dismissing indictment where government 'manufactured' the crime, violating due process). Here, the state of Texas manufactured the plea.

This pattern of deliberate misconduct, designed to subvert the judicial process, caused demonstrable and irreparable harm to Petitioner's constitutional rights and to his health. See *State v. Frye*, 897 S.W.2d 324 (Tex. Crim. App. 1995) (upholding dismissal with prejudice where official misconduct caused irreparable harm). Because of such outrageous conduct, federal courts have dismissed cases when a defendant's due process rights are violated. See *United States v. Santana*, 808 F. Supp. 77 (D. Mass. 1992).

A new trial cannot cure this harm. The entire prosecution has been irreparably tainted by this pattern of bad-faith, conspirator, and criminal conduct. As the Texas courts have recognized, the "drastic remedy" of dismissal with prejudice is warranted when the cumulative effect of misconduct makes a fair trial impossible. *State v. Hill*, 558 S.W.3d 280 (Tex. App.–Dallas

Dallas 2018). The judiciary's inherent power to protect the integrity of its own proceedings demands such a result when faced with misconduct this egregious. See *State v. Terrazas*, 962 S.W.2d 38 (Tex. Crim. App. 1998) (affirming court's authority to dismiss for constitutional violations causing demonstrable prejudice). To merely vacate the conviction and allow the state another opportunity to commit more crimes against the Petitioner through another prosecution would be an inadequate remedy. The state of Texas has proven that its officials are not capable of obeying the Constitiution. This pattern of criminal behavior will continue to reward the state for its unconstitutional behavior—undermining, the very principle of justice this Court is sworn to uphold. To ignore such illicit and dishonorable actions, only enourages prosecutors throughout the nation to use any means to obtain convictions. And it disregards the grueling 5-months penalty the Petitioner had to pay in a filthy jail when he was innocent of the alleged crimes. *Cf. Oregon v. Kennedy*, 456 U.S. 667 (1982) (barring retrial where prosecutor purposely goads a mistrial).

As such, the only proper remedy is to remand with instructions to dismiss the indictment with prejudice, thereby barring any future retrial.

Pursuant to Tex. Civ. Prac. & Rem. Code § 16.001 (2023), "A void judgment is a nullity and may be attacked in <u>any</u> court at <u>any</u> time." The court in *United States v. Richey*, 399 U.S. 657 (1970) cited 28 U.S.C. § 1652, and reiterated that a void judgment is a nullity that may be attacked in <u>any</u> court. Dismissal in this case is warranted. See *U.S. v. Nebel*, 856 F. Supp. 392 (M.D.

Tenn. 1993). *State Ex Rel. Forsythe v. Coate,* 558 P.2d 647 (Mont. 1976). The courts in Texas recongize that an order of probation, signed by a visiting judge who possessed no jurisdiction in the case—is unenforceable and void.[2] Yet, the courts as well as the probation office in Dallas County are using this void order to prevent Petitioner from obtaining critical life saving medical care.

On October 23, 2025, the Petitioner notified his probation officer that the probation order is void because it was signed by a judge lacking jurisdiction. On October 24, 2025, he hand-delivered a six-page letter to Mr. Arnold Patrick, Director of Adult Probation for Dallas County, reiterating those fasts in detail. Petitioner asserted that continual enforcement of a void order violates his Constitutional rights. Moreover, the ATRS report was not supported by facts, and prepared by someone who was not qualified under Texas law.

Petitioner direct the Court's attetion to **(App.40a–47a)**. This is the ATRS report generated by Dallas County. The report is self-reporting, self-servicing, and contain contradictory observations, absent objective data to make credible findings, no collateral medical records are found, and no verified mediction list. The report at best is speculative rather than evidence-based.

The ATRS report appears intended to subject the Petitioner and other *defendants* to unnecessary medical treatment and testing; not to assist the Petitioner, but to create a trap that could lead to incarceration if they do not comply. Petitoiner requirement to pay for UID testing when he has no history of drug usage or alcohol dependency, indicate a profit motive.

In this case, the goal of Dallas County appears to portray the Petitioner as a violent criminal irrespective of the facts, thereby justifying a brutal forced guilty plea, and reflecting the state's inability to try the petitioner *pro se* and secure a jury verdict. These actions violate both the United States Constitution and the Texas Constitution.

Petitioner directs the Court's attention to (**App.48a–55a**). Here, a certified licensed psychiatrist denounce the allegation that the Petitioner has a depenceny on drugs or alcohol. It is the psychiatrist medical opinion that, the Petitioner shows no signs of psychotic illness, bipolar disorder or schizophrenia—and no signs of risk of suicide or violence.

The state of Texas will allow the Petitioner to die or suffer blindness if this Court does not intervene. Or incarcerate him in jail or prison to silence him from exposing their corruption, to prevent him from filing of petitions to seek assistance, and to keep him from obtaining proper medical care.

Petitioner, Eric Drake, is therefore requesting the Court to dismiss the indictments, Cause No. F-22-76307 and F-24-76901 for the egregious misconduct by judges and prosecutors in the state of Texas that, cannot be cured by a lesser sanction. This is an extraordinary circumstance of deliberate indifference, criminal acts, conspiracy and Constitutional violations by state actors.

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[2]*Rice v. State*, 971 S.W.2d 533 (Tex. Ct. App. 1997) – the court held that a probation order issued without jurisdiction is void and cannot be enforced. *In re Hall*, 989 S.W.2d 786 (Tex. Ct. App. 1999) – the court emphasized that a court lacks authority to act outside the statutory window; any order entered thereafter is void.

Furthermore, the Petitioner believes that he is entitled to reimbursement of his travel, lodging, and medical expenses, a right grounded in Tex. Civ. Prac. & Rem. Code § 38.001, which allows recovery of reasonable expenses incurred as a result of the State's unlawful restraint of his liberty.

This writ is presented to the Honorable Court as a matter of life and death. Respecfully, the Court's intervention is requested and warranted Now.

XI. CONCLUSION

For the foregoing reasons, the petition for a Writ of Certiorari should be granted.

Respectfully submitted,

/s/ Eric Drake
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VERIFICATION

I declare under penalty of perjury that the statements and allegations contained in this Writ of Certiorari are true and correct to the best of my knowledge and belief.

Thus, done on this 10th day of November, 2025.

/s/ Eric Drake
Eric Drake