

No. _____

25-6764

ORIGINAL

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SUPREME COURT, U.S.

IN THE

SUPREME COURT OF THE UNITED STATES

JERRY LEE FLORES

— PETITIONER

(Your Name)

vs.

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

JERRY LEE FLORES

(Your Name)

WILLIAM P. CLEMENTS UNIT, 9601 Spur 591

(Address)

AMARILLO, TEXAS 79107

(City, State, Zip Code)

UNIT PHONE # 806-381-7080

(Phone Number)

QUESTION(S) PRESENTED

"WHETHER PETITIONER HAD RECEIVED INEFFECTIVE-ASSISTANCE-OF-COUNSEL?"

"WHETHER THE STATE CAN REPLACE A JURY VERDICT WITHOUT HAVING ANOTHER JURY TRIAL?"

"WHETHER THE PETITIONER WAS DENIED DUE PROCESS OF LAW IN HIS STATE COURT PROCEEDINGS?"

"WHETHER THE STATE COURTS DECIDE PETITIONER'S COURT PROCEEDINGS UNREASONABLY AS WOULD BE FOUND IN THE FEDERAL AND UNITED STATES SUPREME COURT OR IS THIS CASE A CASE OF FIRST IMPRESSION?"

"WHETHER THERE SHOULD BE A LIMIT ON HOW MANY TIMES AN OFFENSE THAT STARTS AS A MISDEMEANOR IS ENHANCED TO A PUNISHMENT OF A FIRST DEGREE LIFE SENTENCE?"

"WHETHER A LIMIT ON HOW MANY TIMES A PRIOR CONVICTION CAN BE USED IN A ONE COURT PROCEEDING TO ENHANCE AN OFFENSE?"

LIST OF PARTIES

- [x] 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

1. Trial Court-Texas v. Jerry Lee Flores Cause No. 0849816-D Judgement entered Aug.22,2002
2. Flores v. StateNo.02-02-340-CR,Second Court of Appeals, Affirmed Nov.6,2003
3. In re Flores,PD-0286-04,PDR to the Texas Court of Criminal Appeals,Refused May 5,2004
- 4.Ex parte Flores No. C-372-008969-0849816-A,FILED Dec.15,2009 Denied Feb.6,2013
5. Ex parte Flores No. C-372-W011320-0849816-B, D 372-W011320-00, Dismissed Sept.5,2018
6. Ex parte Flores No. C-372-W012364-0849816-C,W 012364, Dismissed Feb.21,2024
7. Ex parte Flores No. C-372-W012470-0849816-D,W 012470 filed June 7,2024 Dismissed WithoutWritten Order Based on Trial Court's findings Without Hearing 7/30/2025
8. Petition for a Writ of Certiorari To the United States Supreme Court

TABLE OF CONTENTS

OPINIONS BELOW	1
JURISDICTION.....	2
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	3
STATEMENT OF THE CASE	4
REASONS FOR GRANTING THE WRIT	8
CONCLUSION.....	16

INDEX TO APPENDICES

APPENDIX A	1. TEXAS COURT OF CRIMINAL APPEALS DENIAL 7/30/2025 2. COURT OF CRIMINAL APPEALS ORDER TO REMAND 9/25/2024 3. FLORES MEMORANDUM IN SUPPORT OF No. WR-69,159-07 4. TRIAL COURT'S PROPOSED FINDINGS AND ORDER WR-69,159-07
APPENDIX B	1. STATE'S MEMORANDUM OF LAW IN OPPOSITION TO WR-69,159-07 2. STATE'S FIRST AMENDED MEMO. FINDINGS OF FACT & CONCLUSIONS OF LAW filed 1/21/2025.
APPENDIX C	1. INFORMATION on Cause No. CRF-89-187; CRF-90-65 & ORDER REVOKING SUSPENDED SENTENCE of Cause No. CRF-89-187
APPENDIX D	1. Excerpt of Trial RECORDS from Vol.6 Proceedings Aug.21,2002 2. OKLAHOMA DOC# 170639- Flores' Criminal History
APPENDIX E	1. MISCELLANEOUS: That may help the Court make it's Findings A. From Proceedings of Cause No. C-372-W012364-0849816-C n.1 B. Answer of letter sent to counsel J.Warren St.John after Appeal C. Document of SEALED VOLUME to show the ineffectiveness of St.John.
APPENDIX F	

TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
Strickland v. Washington, 466 US 668,(1984)	8
Gall v. United States, 552 US 38 (2007)	11
United States v. Booker, 543 US 220 (2005)	11, 12
Fay v. Noia, 372 US 391 (1963)	14
Ex parte Parrott, 396 S.W.3d 531 (Tex.Crim.App.2013)	6,9,10,12,13,
Ex parte Adams, 707 S.W.3d 251 (2024)	12
Ex parte Rodgers, 598 S.W.3d 262 (Tex.Crim.App. 2020)	13
Ex parte Hill, 632 S.W.3d 547 (Tex.Crim.App. 2021)	13
Ex parte Pue, 552 S.W.3d 226 (Tex.Crim.App.2018)	5,6,7
Ex parte McMillan, 688 S.W.3d 336 (Tex.Crim.App. 2024)	5,6

STATUTES AND RULES

United States Supreme Court Rule 10 (b) (c)	8
Texas Penal Code section 12.42 (d)	8,11,13,14,15
Texas Penal Code section 49.09	11,14
Texas Code of Criminal Procedure Article 11.07	9

OTHER

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 _____ 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.

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 7/30/2025.
A copy of that decision appears at Appendix A.

☐ A timely petition for rehearing was thereafter denied on the following date: N/A, 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. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

UNITED STATES CONSTITUTIONAL AMENDMENT FIVE: No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

UNITED STATES CONSTITUTIONAL AMENDMENT SIX: In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

UNITED STATES CONSTITUTIONAL AMENDMENT EIGHT: Excessive bail shall not be required nor excessive fines imposed, nor cruel and unusual punishments inflicted.

UNITED STATES CONSTITUTIONAL AMENDMENT FOURTEENTH SECTION I : 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.

SUPREME COURT OF THE UNITED STATES RULES R.10 (b)(c); Review on a writ of certiorari is not a matter of right, but of judicial discretion. A petition for a writ of certiorari will be granted only for compelling reasons. The following, although neither controlling nor fully measuring the Court's discretion, indicate the character of the reasons the Court considers: (b) a state court of last resort has decided an important federal question in a way that conflicts with the decision of another state court of last resort or a United States court of appeals; (c) a state court or a United States court of appeals has decided an important question of federal law that has not been, but should be, settled by this Court, or has decided an important federal question in a way that conflicts with relevant decisions of this Court.

18 USCS § 3553 (b) (1); 18 USCS § 3742 (e) [CAUTION: In United States v. Booker, (2005) 543 US 220, 160 L.Ed.2d 621, 125 S.Ct. 738, the Supreme Court held (1) that 18 USCS § 3553 (b)(1), which makes the Federal Sentencing Guidelines mandatory, is incompatible with the requirements of the Sixth Amendment and therefore must be severed and excised from the Sentencing Reform Act of 1984, and (2) that 18 USCS § 3742 (e), which depends upon the Guidelines' mandatory nature, also must be severed and excised.]

Texas Penal Code Statutes: § 49.09 (b)(2) (g); § 12.42 (d); _____ p.11
Texas Code of Criminal Procedure Article 11.07

STATEMENT OF THE CASE

Petitioner, Jerry Lee Flores (Flores), selected to have a Jury Trial and to have Jury to assess punishment. Convicted of Driving While Intoxicated (DWI) on Aug. 21, 2002 from Indictment No. 0849816-D it contained two prior convictions CRF-88-46 and CRF-93-13 were used for enhancement of subject-matter jurisdiction into a felony court. Trial counsel J. Warren St. John advising Flores to stipulate to the priors before trial, but failed to explain that by doing so reliving the State of presenting evidence on the priors. The same priors are found in the Court's Charge to the jury on page 3, and that if the Jury found them to be "TRUE" then they could find the defendant "GUILTY". Before the start of punishment phase while sitting at defense table St. John asked Flores a question about the other two priors in the Indictment's Habitual Offender Notice priors CRF-89-187 and CRF-90-65 Q: "Did you go to jail on the priors?" A: "Yes" St. John: "Well when the Judge ask you about them tell him "TRUE". This was the complete investigation on the priors, and on Aug. 22, 2002, Flores was given a "LIFE" sentence due to the priors used for enhancement. St. John also failed to tell Flores that by pleading true again relieve the State from presenting evidence at punishment phase, also on this date Flores filed for Notice of Appeal, however, St. John was also appointed as Appeal Counsel. The Appeal was denied/affirmed Nov. 6, 2003. Ex parte Flores WL 22514656, No. 02-02-340-CR Flores tried to obtain all his trial documents for a collateral attack on what Flores felt was a wrongful conviction, but the trial Judge Scott Wisch sealed the Jury selection voir dire and the Pre-Trial Hearings on Aug. 16, 2002 before trial started. Flores tried for years to get the Judge to unseal the records, but without success. Flores wrote St. John to see if there was anything in the sealed records that could have been used in the Appeal, because Flores felt he had a Batson Issue in his trial. St. John said that he had put every thing he could in the appeal and did not recall any records being sealed. Flores submitting a copy of the letters and ask the Question for the Court of "Whether he had received ineffective-

STATEMENT OF THE CASE

assistance-of-counsel?". Flores thinks that by counsel's deficiency in his case for not investigating possible mitigating circumstances, because later when Flores filed his First State Habeas Corpus Writ on Dec.15,2009, because he was time barred from Federal Courts. The Trial Court held the Application for four years before transmitting it to the Texas Court of Criminal Appeals. The State also found in its PROPOSED MEMORANDUM, FINDINGS OF FACT, AND CONCLUSIONS OF LAW that the two priors used for enhancement of punishment were not sequential as required by law to be used, but stated that they could have used two other priors CF-97-252 and CRF-98-253 to replace the non-sequential priors therefore, not correcting nor giving relief. The two new priors were both run concurrently and suspended sentences not yet final because they were not Ordered Revoked. On Feb.6,2013 the first habeas writ was DENIED without written order on trial court's findings without a hearing. Ex parte Flores, No. C-372-008969-0849816-A, No. WR-69,159,04. The writ had seven grounds. Two of which pertain to issues in this Petition were Ground Four: State used improper enhancement priors. Ground Five: Ineffective-assistance-of-counsel at guilt/innocence and punishment phases of trial. A second Writ was filed with the same an actual innocent of being a Habitual Offender as found in the indictment, and Counsel's ineffectiveness. dismissed on Sept.5,2018. Ex parte Flores, WR-69,159-05, No. C-372-W011320-0849816-B. Flores being persistent knowing his conviction/punishment is Wrong, and filed a Third Writ with Ground One: That his punishment is outside the legal punishment range, and His counsel was ineffective. This time the Trial Court Ordered to have a Magistrate Judge in this case filed Oct.24,2023, and in the State's Findings of Fact, and Conclusion of Law filed Nov.22,2023 on pages 6-7 at 11-17 that the legal basis would be set in a case then pending in the Court of Criminal Appeals with Ex parte McMillan, on whether the case of Ex parte Pue is to be found to apply retroactively and if it is then Flores' first Ground would be Granted this again on page 9 at 32. Upon the Magistrate's Findings and Order at n.1 it is reiterated about Pue being retroactive. However, the State Court order

STATEMENT OF THE CASE

By Magistrate Judge Erin W. Cofer was to Dismiss the Application, and sent it to the Court of Criminal Appeals where it also Dismissed on Feb. 21, 2024 prematurely before the Ex parte McMillan, and Pue case was decided on May 1, 2024 to apply Pue retroactively. Thus, Flores filed his Fourth Writ and with the same Grounds that would have been granted being the sentence is illegally enhanced and it was due to the ineffectiveness of his Counsel. The Court of Criminal Appeals Ordered to Remand Flores back to the Tarrant County Court for a Hearing to make a record as to see if non-final priors were used to enhance punishment and to see if others could have been used In this application filed June 5, 2024 Flores was appointed Matthew Smid as counsel for the Hearing in Ex parte Flores, No. C-372-W012470-084 9816-D, [WR-69,159-07]. The fact that the priors used at the first writ hearings that were suspended sentences could no longer be used to keep the enhanced life sentence the State's Findings of Facts and Conclusions of Law found that the DWI was enhanced with non-final priors, "BUT" that it is harmless and therefore, not given relief due to Flores' criminal history under Ex parte Parrott, and of which the Court of Criminal Appeals cited in the Remand Order. The Fact is that in that case Parrott he plead guilty and he had three other priors that were never used, and in Flores' case the only other felony prior left was CRF-93-13 that was used to enhance jurisdiction into a felony court at the start of his trial. The State said that they could have used the jurisdictional prior to take the place of CRF-90-65s place and put two misdemeanor traffic non counseled convictions to put in place of the now open jurisdictional place and that would also take away the Jury findings. Brings the Questions : "Whether the State can replace a Jury verdict without having another Jury Trial?". And "Whether the Petitioner was denied Due Process of Law in His State Court Proceedings?" Did the State Courts decide on Flores' proceedings unreasonably as to other Federal and United States Supreme Court Cases or is this a case of first impression? Because, Flores could not find any other cases dealing with this matter as to the State denying relief

STATEMENT OF THE CASE

for an illegally enhanced sentence when it was found that the priors used were void for use, but that this is harmless. The State has tried twice to keep the illegally imposed life sentence on Flores, secondly his Habeas writ filed 2009 when the state said that they could use the CR-97-252 and the CRF-253 suspended sentences as to deny the habeas writ and now after the Ex parte Pue retroactive finding, and the two suspended sentences are void as well, the State's contention that it is a harmless error to enhance punishment with non-final convictions, and to state that the state could-have used the prior that was used in the enhancement of the DWI into felony court even-though it had been used, and that is the only other prior felony left. Flores feels that the State can keep their conviction he only wants to have been sentenced to the proper punishment for a third degree felony of a possible two years to ten years sentence also feels this would be just and reasonable. With this Question "Whether there should be a limit on how many times an Offense that starts as a misdemeanor is enhanced to a punishment of a First degree Life sentence, and how many times can a prior conviction be used?".

REASONS FOR GRANTING THE PETITION

Under Supreme Court Rule 10 (b)(c) The State Court of last resort had decided or failed to decide important questions on the effective-assistance-of-counsel and a questionable use of prior convictions used to enhance jurisdiction and punishment. First Petitioner (Flores) filed application for a writ of habeas corpus with two grounds: That his sentence is unauthorized/illegal, and he received ineffective-assistance of counsel. Due to trial counsel's failure to investigate Flores prior convictions that was used to enhance punishment. As stated in the STATEMENT OF THE CASE trial counsel J. Warren St. John failure to investigate any prior convictions found in the indictment, and as a result Flores was given the most harsh punishment of a non-capital offense being a LIFE sentence for a Felony DWI, a third degree felony without enhancement is punishment of two years to ten years imprisonment. The Sixth Amendment guarantees a defendant the right to the effective assistance of counsel U.S. CONST. amend. VI. The standard under this issue is found in Strickland v. Washington, 466 U.S. 668, 687, 694, 80 L.Ed.2d 674, 104 S.Ct. 2052 (1984). Petitioner must show in a two-prong test that 1. Counsel's performance was deficient in that the errors made were so serious that counsel was not functioning as the counsel guaranteed by the Sixth Amendment, and 2. prejudice Flores defense by not investigating any prior convictions found in the indictment namely CRF-89-187 and CRF-90-65 in the punishment notice had he done so would have found that they were not sequential for use in and under Texas Penal Code section 12.42(d) of which the State used to enhance the punishment to a life sentence. Being Flores' first trial, Flores had completely relied on St. John, to receive a fair trial. This was not possible when St. John did not properly investigate into any priors before trial, and acted to remove it from the indictment this issue would not be before this Court. So as to a reasonable probability that Flores without the use of the two priors in the indictment he would have gotten lesser sentence to serve.

REASONS FOR GRANTING THE PETITION

In Appendix A is a file copy of (white card) Denying the Writ of Habeas Corpus on July 30, 2025. Also find The Texas Court of Criminal Appeals (TCCA) ORDER To Remand Flores back to Trial court to make a Records Hearing on Cause No. WR-69,159-07. For the grounds presented of "Whether Flores' sentence was enhanced with non-final prior convictions?" And to also determine whether Flores had different final felony convictions which could have been used to enhance the punishment range? The Court cites Ex parte Parrott, 396 S.W.3d 531 (Tex. Crim. App. 2013). The trial court may make any other findings and conclusions that it deems appropriate in response to Applicant's claim. For this hearing trial court appointed counsel Matthew Smid. Also in this Appendix A is a 20 page Memorandum of Law In Support of Application for Writ of Habeas Corpus with exhibits, submitted by Matthew Smid on Oct. 25, 2024. And lastly the Trial Court's PROPOSED FINDINGS AND ORDER that was filed March 12, 2025. The State's MEMORANDUM OF LAW IN OPPOSITION TO Article 11.07 APPLICATION FOR WRIT OF HABEAS CORPUS is found in Appendix B. Upon answering the TCCA question of if Flores was enhanced with non-final prior convictions is "YES", and is found in State's MEMORANDUM p. 2 at II THE APPLICABLE FACTS ARE NOT IN DISPUTE; APPLICANT'S SENTENCE IS ILLEGAL. Again at p. 4 CONCLUSIONS OF LAW at 27. Although Flores sentence is illegally enhanced the State claims that it is harmless and therefore, not appropriate to be granted. Due to Flores' criminal history, and is the first assumption is made that the State "could-have" used Flores' other priors to replace the non-acceptable priors, however, this reasoning is what this Petition for Certiorari to show unreasonable Texas Courts in finding this to be harmless error to an illegally enhanced sentence. Based on priors that was used in the same court proceeding, and to be said could-have been interchanged to fit State's error, and to insistently have Flores to serve the unauthorized punishment. By State using the TCCA's heads-up case of Ex parte Parrott to determine if Flores had other priors that could have been used, but does not state to have been properly substituted as in Parrott.

REASONS FOR GRANTING THE PETITION

Parrott, 396 S.W.3d at 534-35 Parrott did have other felony priors that could have properly been used to enhance punishment and at 538 n.10 that could have been used or substituted in the improper enhancement's place. In note 10 shows that Parrott had been previously been convicted of aggravated robbery cause no. 344734 in 178th District Court of Harris Co. TX. And No. 417926 also in Harris Co. 178th Dist. Ct. for felony theft, and a third felony prior from Montgomery County, TX. 284th Dist. Court cause no. 95-05-00693-CR. The priors mentioned had not before been used in Parrott's case and therefore, due to his criminal history outside the record his case found that even with improperly enhanced punishment his crim. hist. did not change the outcome. Where as in Flores, Flores has no other felony priors that have never been used in this court proceeding. So the State's reasoning to not grant Flores relief based on his criminal history as in Ex parte Parrott is unreasonable due to the fact that Flores does not have other felony priors around that have not been used, and to this Flores would, if it would please the Court, to use this analogy in his case, "the priors are like Bullets in a gun Flores had six priors for the State to use on him, the first two shot were CRF-88-46 and CRF-93-13 to enhance the offense to a felony DWI and into felony jurisdiction, and which Flores had before trial stipulated to also the priors are found in the Court's Charge to the Jury p.3 these two hit, the jury found them to be true, and Flores Guilty. Next in the indictment's Habitual Offender Notice are CRF-89-187 and CRF-90-65 these two it turned out to be duds although shot did not hit because of being dud, and in 2012 when the State first found the punishment priors to be non-sequential for use, the State shot CF-97-252 and CRF-98-253 at Flores in order to keep the improperly enhanced life sentence, however, the last two priors are also duds for the fact that they are not final felony convictions, and Flores has no other felony priors that have not been used before like CRF-93-13 is the only other felony prior, but like a bullet, once fired it is a dead shell, and should not be able to be fired again at Flores. This

REASONS FOR GRANTING THE PETITION

analogy of priors like bullets would better show that a prior used in a single court proceeding should not come alive again as to be used in the same court proceeding. In Texas the Guidelines are found in Texas Penal Code (PC), and under section 49.09 (b)(2),(g) are used for enhancement of offense and jurisdiction. §49.09 (b)(2): (b) An offense under Section 49.04, 49.045, 49.05, 49.06, 49.061 or 49.065 is a felony of the third degree if it is shown on the trial of the offense that the person has previously been convicted:

- (2) Two times of any other offense relating to the operating of a motor vehicle while intoxicated, operating an aircraft while intoxicated, operating a watercraft while intoxicated, or operating or assembling an amusement ride while intoxicated.

Used in making Flores DWI into a felony DWI and in a Felony Court with priors

CRF-88-46 and CRF-93-13 as elements and jurisdictional. Under §49.09 (g): A conviction may be used for purposes of enhancement under this section or enhancement under Subchapter D, Chapter 12, but not under both this section and Subchapter D. For purposes of this section, a person is considered to have been convicted of an offense under Section 49.04 or 49.06 if the person was placed on deferred adjudication community supervision for the offense under Article 42A, 102, Code of Criminal Procedure.

Subchapter D Chapter 12 is for Punishment on Exceptional Sentences, and under

§12.42 (d) Flores was given a life sentence. §12.42 (d): Except as provided by Subsection (c)(2), (c)(4), or (e), if it is shown on the trial of a felony offense other than a state jail felony punishable under Section 12.35(a) that the defendant has previously been finally convicted of two felony offenses, and the second previous felony conviction is for an offense that occurred subsequent to the first previous conviction having become final, on conviction the defendant shall be punished by imprisonment in the Texas Department of Criminal Justice for life, or for any term of not more than 99 years or less than 25 years. A previous conviction for a state jail felony punishable under Section 12.35(a) may not be used for enhancement purposes under this subsection.

The indictment in Flores Habitual Offender Notice had two priors CRF-89-187 and CRF-90 65 for this punishment of a life sentence. To see if a Judge is reasonable in reviewing the difference between a particular sentence and the recommended Guidelines range. "Appellate courts must review all sentences-whether inside, just-outside, or significantly outside the Guidelines range, under a deferential abuse-of-discretion standard." *Gall v. United States*, 552 U.S. 38 (2007).

In *United States v. Booker*, 543 U.S. 220, 125 S.Ct. 738, 160 L.Ed.2d 621 (2005).

The United States Supreme Court invalidates both the statutory provision 18, USCS

REASONS FOR GRANTING THE PETITION

§ 3553(b)(1), which made the sentencing Guidelines mandatory and 18 USCS § 3742 (e), which directed appellate courts to apply a de novo standard of review to departure from the Guidelines. As a result of the Supreme Court's decision, the Guidelines are now advisory, and appellate review of sentencing decisions is limited to determining whether they are "reasonable". The Supreme Court's explanation of 'reasonableness' review in the Booker opinion makes it pellucidly clear that the familiar abuse-of-discretion Standard of review now applies to appellate review of sentencing decisions. It is also clear that a district Judge must give serious consideration to the extent of any departure from the Guidelines and must explain his conclusion that an unusually lenient or unusually harsh sentence is appropriate in a particular case with sufficient Justifications.

In State's MEMORANDUM OF LAW IN OPPOSITION TO ARTICLE 11.07 at p.7 at IV-APPLICANT'S SENTENCE FALLS within His "ACTUAL CRIMINAL HISTORY" Applicant has failed to demonstrate Harm. To be reasonable first: is this His sentence that is unauthorized 'Life' sentence due to non-sequential priors or non-final priors, because the Offense is for a Felony DWI a Third Degree Felony only, and in the same Memo. on P.2 at II The Applicable Fact are not in Dispute Applicant's Sentence IS ILLEGAL. Flores ask how could Actual Criminal History play into this reasoning? In an illegally enhanced sentence because the State errored on the first two priors in the indictment CRF-89-187 and CRF-90-65 were void together and CF-97-252 and CRF-98-253 are not final convictions, and the CRF-93-13 was used for subject-matter jurisdictional into a felony court this reasoning is far from Ex parte Parrott or even Ex parte Adams which the State used to determine if Flores had other Final Felony Convictions. Parrott had three other felony priors not yet used and Adams' Offense was a first degree felony to start so his punishment range was within reason and Parrott's three unused priors made his sentence harmless, but in Flores he has no more Priors that have not been used and his offense is a third degree felony, thus, unauthorized punishment due to trial

REASONS FOR GRANTING THE PETITION

counsel St.John's not investigation into Flores Priors would have found at first in the indictment's punishment Notice that the prior convictions were not-sequential to use under § 12.42 (d) to give Flores the Life sentence. For the State now to say that what could have been,was not,and to interchange priors around as the State would like Flores should just get a new Trial,and for the State to rely on Ex parte Parrott when Flores's case is different in a number of ways.For instance under Parrott to use priors from his criminal history would cause no other part of that proceeding to be interrupted like the Jurisdictional part,where as Flores for the State to take one prior from that part would make a void in that part of the court's proceeding,and that is why the State tries to explain that under Ex parte Rodgers,598 S.W.3d 262,267 (Tex.Crim.App.2020) applies Parrott to jurisdictional paragraphs,but the there are NO jurisdictional errors in Flores only if State takes one of the priors used in that part of the proceeding would it be now a jurisdictional matter. The State also relying on Ex parte Hill,632 S.W.3d 547 (Tex.Crim.App. 2021) because Hill went to Jury Trial as did Flores. Now due to Hill failed to Object at trial,and if Flores had effective assistance of trial counsel an Objection would have been likely. Flores' sentence was illegal when it was imposed due to the non-sequential priors submitted in the indictment making it a State error not Flores,and even if Flores plead 'TRUE' to the habitual offender notice what he plead true to in court jury present was not true [See Appendix D part of the trial records at punishment phase].in vol.6 p.5 at5-15. The Court ask Flores how he plea to prior convictions in 1993 and 1990,Flores only plead ture because of St.John's advise,and there is no conviction in 1990,and therefore, not true.Also found in Appendix D is Flores criminal history record from Oklahoma. Along with CRF-89-187 information Order to Revoke that suspended sentence and CRF-90-65 information in when that offense was committed,and making the State's use of the last mentioned priors in the indictment,and making it an illegally enhanced punishment.

REASONS FOR GRANTING THE PETITION

"Where State procedural snarls or obstacles preclude an effective State remedy against unconstitutional convictions, Federal courts have no other choice but to grant relief in the collateral proceeding." *Fay v. Noia*, 372 U.S. 391.

The situation, simply put, is this, Texas Punishment Guidelines found in the Texas Penal Code Statutes, and in Flores case as before mentioned are § 49.09 (b)(2) for a Driving While Intoxicated Offense with two prior DWIs CRF-88-46 and CRF-93-13 enhanced to a Felony DWI and the Jurisdiction to try this new offense. The State of Texas put the priors into the indictment to be used in this manner. The State also put into the indictment's Habitual Offender Notice two other priors CRF-89-187 and CRF90-65 for use to enhance punishment. This under § 12.42 (d) the State through a Jury Trial imposed a life sentence on Flores. However, later it is found that the punishment of a life sentence is now void because of priors used were not in requirements for use to enhance punishment, and making Flores' sentence void, unauthorized, and illegal. Thus, a violation of Flores' Rights under the United States Constitutional Amendment Rights of the Fifth, Sixth, Eighth, and Fourteenth Amendments. Starting in part with the Fifth:

No person shall be held to answer for ...nor shall any person be subject for the same offense to be twice put in Jeopardy of life...nor be deprived of life liberty, or property without due process of law....

Under the Sixth: In all criminal prosecutions, the accused shall enjoy the right...to a speedy, public, and impartial Jury of the State, and district wherein the crime shall have been committed, Which district shall have been previously ascertained by law,...and to have the Assistance of Counsel for his defence.

Eighth Amend.: Excessive bail shall not be required nor excessive fines imposed nor cruel and unusual punishments inflicted.

Under the Fourteenth Amend. Section I in part: All persons born...in the United States, and subject to the Jurisdiction thereof, are citizens of the United States...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.

When the State made its chart of Flores priors in order to manipulate the courts by switching the priors around to make it seem that Flores priors in his criminal history

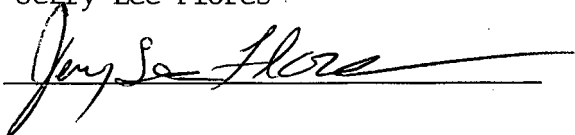
REASONS FOR GRANTING THE PETITION

nal history was enough to keep the illegally imposed life sentence upon him when in fact his criminal history as seen in Appendix C From Oklahoma, and that he only six priors to be used that were of felony grade and two misdemeanor traffic violatins. Flores does not have other prior convictions that were not put into the indictment other than two non-final priors CF-97-252 and CRF-98-253 that was alleged that the State could-have used back in 2012 when it was found by the State that the § 12.42 (d) priors put in the indictment were void, and thus, not correcting the error made by the State, and once again the State said that it could have switched the priors around in order to keep the illegal sentence on Flores this matter of reasonableness is not found in any Federal or United States Supreme Court cases for this clearly is a case of the Miscarriage of Justice for Flores.

CONCLUSION

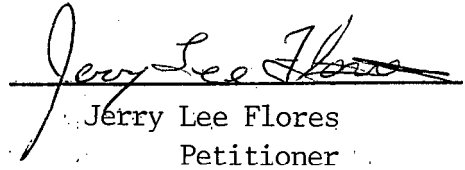
The petition for a writ of certiorari should be granted.

Respectfully submitted,
Jerry Lee Flores

A handwritten signature in cursive script, appearing to read "Jerry Lee Flores", is written over a horizontal line.

Date: Oct. 23, 2025

On October 23, 2025 a Petition for Writ of Certiorari was left in the William P. Clements Unit Law Library to have U.S. Postage prepaid affixed and to be mailed and filed with the United States Supreme Court, also a notarized statement showing proof of indigence with six month showing. I declare under penalty of perjury, under the Laws of the United States of America that the foregoing is True and Correct. Executed on this 23 day of October 2025.


Jerry Lee Flores
Petitioner