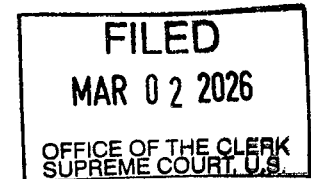


25-6959

ORIGINAL

No. _____



IN THE

SUPREME COURT OF THE UNITED STATES

FRANKLIN DANUARI CALIX-REYES - PETITIONER

vs.

THE STATE OF TEXAS – RESPONDENT

ON PETITION FOR WRIT OF CERTIORARI

TO THE

EIGHTH COURT OF APPEALS OF TEXAS

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

Did the 8th Court of Appeals of Texas err by ruling that the Petitioner voluntarily, knowingly and intelligently waived his Miranda rights when the recorded custodial interrogation interview reveals that the interrogating officer first obtained the signature of Petitioner to the waiver of Petitioner's Miranda rights, then the interrogating officer rapidly mumbled and read the Petitioner's Miranda rights to himself in a faintly audible voice, followed by the interrogating law enforcement officer failing to read or explain the waiver of Miranda rights to Petitioner, and a subsequent admission by the interrogating officer to the trial court that he was reading the waiver of the Miranda rights to himself?

Did the 8th Court of Appeals of Texas err by ruling that the interrogating law enforcement officer's rapid mumbling faintly audible and admittedly self-reading of the waiver of Petitioner's Miranda rights, substantially complied with the Fifth and Fourteenth Amendments to the United States Constitution?

LIST OF PARTIES

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

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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

[X] For cases from **state courts**:

The opinion of the Court of Appeals, Eighth District of Texas, El Paso, Texas to review the merits appears at Appendix A in an unpublished opinion found at 2025 WL 947899.

The Order of the Court of Appeals, Eighth District of Texas, El Paso, Texas denying Petitioner's Motion for Rehearing appears at Appendix B.

JURISDICTION

For cases from **state courts**:

The date on which the highest state court, the Texas Court of Criminal Appeals, denied Petitioner's Petition for Discretionary Review was on December 4, 2025, appears at Appendix C.

The jurisdiction of this Court is invoked under 28 U.S.C. § 1257, having timely filed this petition for a writ of certiorari within ninety days of the denial of discretionary review by the Texas Court of Criminal Appeals.

CONSTITUTIONAL PROVISIONS INVOLVED

United States Constitution, Amendment V:

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 Constitution, Amendment XIV:

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

In the early morning hours of April 25, 2020, Romeo Enriquez Perez (hereinafter referred to as "Mr. Perez"), died of multiple stab wounds in the bedroom of his residence. Present at the time of the murder were Jeferson Reyes-Ortiz (hereinafter referred to as "Jeferson") and the Petitioner.

On May 6, 2020, Jeferson was arrested in West Palm Beach, Florida after he and his girlfriend drove there from San Antonio, Texas. (Record 17, p. 109).

On May 11, 2020, Petitioner was arrested in Rogers, Arkansas, pursuant to a Warrant of Arrest. (Record 5, p. 17)

After his arrest, Petitioner was taken to a facility where he was interrogated by Sgt. Luis Lara (hereinafter referred to as "Sgt. Lara") concerning the homicide. (Record 5, p. 18) It was at this event that Petitioner's privilege against self-incrimination became jeopardized. *Miranda*, 384 U.S. 479.

Sgt. Lara testified he was a part-time dispatch transport officer for the Bentonville Sheriff's Office when he wasn't working at Walmart. Sgt. Lara confessed that he had never interviewed a Defendant, had never investigated a criminal case, had never prepared an offense report, had never read Miranda warnings to anyone and never learned how to read Miranda warnings while at the academy, (Record 5, p. 51) (Record 16, p. 33, 52-53, 56-57, 62)

In addition to his inexperience in custodial interrogations, Sgt. Lara admitted he never viewed photos of the crime scene of Mr. Perez' residence, never read any reports prepared by the investigating officers, did not read Mr. Perez' autopsy report, was unaware

of the number of stab wounds on Mr. Perez' body, never viewed photos of the murder weapon and never viewed the recorded interview of Jeferson. The height of Sgt. Lara's inexperience occurred when he admitted he did not know the definition of "custodial interrogation." (Record 16, p. 58-60, 88)

Sgt. Lara's inexperience in law enforcement investigations, coupled with his lack of knowing anything about reading Miranda warnings or their waiver prior to custodial interrogation, created the foundation of the perfect storm for the violation of Petitioner's Constitutional rights.

The written transcript of Petitioner's custodial interrogation does not come close to visually describing the events depicting how Petitioner's Constitutional rights were repeatedly violated. Those violations can only be fully appreciated by viewing the 7-minute excerpt during the reading of Petitioner's Miranda warnings. (Exhibit 118)

The recorded custodial interrogation reveals the interrogation began at 2:33:14 p.m. Nine minutes after the custodial interrogation began, at 2:42:56 p.m. Sgt. Lara began to read the Miranda warnings to Petitioner for the first time. The recording reveals that during the initial reading of the Miranda warnings, Sgt. Lara positioned his chair facing the Petitioner as the warnings were read.

After Sgt. Lara finished reading Petitioner the Miranda warnings, and before he read the waiver of Miranda warnings to Petitioner, at 2:45:08 p.m. the recording reveals Sgt. Lara immediately instructed Petitioner to sign and initial the Miranda Warnings form along with the Waiver of his Constitutional rights. This was followed by Sgt. Lara writing or signing his name on the same form.

At 2:45:56 p.m. Sgt. Lara is seen on the recording turning away from facing the Petitioner, looking down at the Miranda form, lowering his voice, and speaking rapidly and indistinguishably as he mumbled and read the waiver of Petitioner's rights to himself.

As Sgt. Lara continued his rapid indistinguishable mumbled and self-reading of the waiver of Petitioner's rights, at 2:46:15 p.m., the recording shows the Petitioner reaching for a canned beverage from the desk where Sgt. Lara was reading and drinking from it. Petitioner later testified he thought Sgt. Lara was finished talking to him. (Record 5, p. 21)
(Record 16, p. 72).

As Petitioner was still drinking from his beverage, at 2:46:22 p.m. the recording reveals Sgt. Lara reaching for his cell phone and sending or responding to a text message.

At 2:46:38 p.m., Sgt. Lara put his cell phone down, turned his chair, faced Petitioner, and told Petitioner that he had read Petitioner his rights.

At 2:46:41 p.m., Sgt. Lara told Petitioner asked Petitioner if he wanted to continue talking to Sgt. Lara.

The recorded custodial interrogation plainly reveals that at no time after the mumbled self-reading of Petitioner's Miranda warnings did Sgt. Lara ask Petitioner if he desired to waive his Constitutional rights and give a statement. The overall effect of the mumbled self-reading of Petitioner's Miranda warnings was that Petitioner was never informed of his right to waive his Constitutional rights.

At the suppression hearing, Sgt. Lara was asked if he agreed that in that last part Sgt. Lara was mumbling. Sgt. Lara acknowledged that when Petitioner reached for a soda, Petitioner was no longer paying attention. When asked if he was reading the Waiver of

Rights to Petitioner, Sgt. Lara confessed "I was reading to myself that portion." (sic) (Record 5, p. 47-48)

The harm to Petitioner from the introduction in evidence of the custodial interrogation became immediately apparent after jury deliberations began. Despite all the exonerating evidence, the only exhibit the jury requested and reviewed before arriving at their verdict was the written transcript of Sgt. Lara's custodial interrogation. (Record 18, p. 71, 72-73)

REASONS FOR GRANTING THE PETITION

The Court of Appeals, Eighth District of Texas, El Paso, Texas, has decided an important question of federal law that has not been but should be settled by this Court avoid an erroneous presumption of the waiver of a person's Constitutional rights.

Petitioner's appeal contended that Sgt. Lara's reading of the waiver of Constitutional rights was so "incoherent" and "inarticulate" that no one could have understood him. Combined with other factors such as Petitioner's youth, limited education, and limited experience with the criminal justice system, Petitioner did not and could not have made a knowing and intelligent waiver of his rights. (App. 25)

In an unpublished opinion the Eighth Court of Appeals reviewed the Petitioner's complaint that he did not make a knowing, intelligent, and voluntary waiver of his rights. The Eighth Court of Appeals disagreed and held that it is well-established that although a valid waiver will not be presumed from a suspect's silence after being read his *Miranda* rights, a waiver "need not assume a particular form and in some cases, 'a waiver can be clearly inferred from the actions and words of the person interrogated.'" (App. 20, 21, 25)

The Opinion of the Eighth Court of Appeals did not take into consideration the procedural safeguards this Court addressed in *Miranda* that must be employed to protect the privilege against self-incrimination. Instead, the Eighth Court of Appeals focused its decision on Petitioner signing a waiver that was in English and translated to Spanish by Sgt. Lara, all the while failing to properly address Sgt. Lara's mumbled self-reading of the

waiver of Petitioner's constitutional rights, or the visual recording that reveals that Sgt. Lara instructed Petitioner to sign his name on the waiver of rights prior to the waiver being read. *Miranda*, 384 at 479. (App. 26) (EXHIBIT 118)

The opinion of the Eighth Court of Appeals then considered the Petitioner's testimony from the suppression hearing that occurred two years later. Based on the testimony at the suppression hearing of May 31, 2022, the Eighth Court of Appeals reached its opinion that Petitioner did not indicate he had any difficulty reading the declaration to himself at the hearing. (App. 26)

The Eighth Court of Appeals again overlooked the mumbled self-reading of the Petitioner's waiver of Constitutional rights during the custodial interrogation, along with the waiver of rights be signed prior to the waiver being read, and instead considered the Petitioner's testimony at the jury trial that occurred three years later on October 1, 2023. The opinion of the Eighth Court of Appeals found that at the jury trial the Petitioner was able to read and write Spanish, and more particularly, that he had the opportunity to read the declaration he was signing, although he claimed not to have paid "a lot of attention" to it as he was "scared" at the time. (App. 26)

The Petitioner's testimony at the suppression hearing or at the jury trial were not the subject of his appeal. Full awareness of the rights being waived during the custodial interrogation was the central issue in Petitioner's appeal inasmuch as it is essential under Miranda. Without a Miranda warning or a valid waiver of the Miranda rights, statements made may be inadmissible at trial under the exclusionary rule. The Opinion of the Eighth Court of Appeals, however, failed to grasp the violation of Constitutional rights that

occurred during the custodial interrogation, focusing instead on the Petitioner's testimony at the suppression hearing and at the jury trial.

The issue of a Defendant's voluntary, knowing and intelligent waiver of his warnings was addressed by this Court in *Moran v. Burbine*, 475 U.S. 412, 106 S.Ct. 1135, 89 L.Ed.2d 410 (1986)). In *Moran*, the Court first addressed the relinquishment of rights and held that it must have been voluntary in the sense that it was the product of free will and deliberate choice rather than intimidation, coercion, or deception. The Supreme Court went on to hold that a waiver must be made with full awareness of both the nature of the right being abandoned and the consequences of the decision to abandon it. *Moran* at 421.

The concept of the full awareness of one's constitutional rights being waived was amplified when this Court stated that it was necessary to ensure that what was proclaimed in the Constitution had not become but a "form of words" in the hands of government officials. *Miranda v. Arizona*, 384 U.S. 436, 444 (1966).

In *Escobedo* this Court held "... no system of criminal justice can, or should, survive if it comes to depend for its continued effectiveness on the citizens' abdication through unawareness of their constitutional rights". *Escobedo v. State of Illinois*, 378 U.S. 478, 490, 84 S.Ct. 1758, 1764, 12 L.Ed.2d 977 (1964).

The ruling from this Court in *Miranda* of "giving an adequate warning" and in *Escobedo* of "abdication through unawareness of constitutional rights" is precisely what the Eighth Court of Appeals overlooked in its opinion when it gave its "narrow and restrictive construction" of Sgt. Lara's unintelligible, mumbled and self-reading of the waiver of Petitioner's Miranda rights.

This Court ruled in *Miranda* that a valid waiver will not be presumed simply from the silence of the accused after warnings are given or simply from the fact that a confession was in fact eventually obtained. *Miranda*, 384 U.S. at 470. The requirement of warnings and waiver of rights is fundamental with respect to the Fifth Amendment privilege and not simply a preliminary ritual to existing methods of interrogation. The warnings required and the waiver necessary in accordance with this Court's opinion in *Miranda*, in the absence of a fully effective equivalent, is a prerequisite to the admissibility of any statement made by a defendant. *Miranda*, 384 U.S. at 476.

The opinion of the Eighth Court of Appeals overlooks the foregoing mandates from this Court and essentially views Sgt. Lara's mumbled inarticulate self-reading of the waiver of Petitioner's Constitutional rights as a mere "form of words." The opinion further leads to the inescapable conclusion that the recorded custodial interrogation was never viewed by the Eighth Court of Appeals as Petitioner requested. To have done so would undoubtedly reveal the absence of an awareness of the nature of the rights being abandoned.

Only if the totality of the circumstances surrounding the interrogation reveal both an uncoerced choice and the requisite level of comprehension may a court properly conclude that the *Miranda* rights have been waived. *Moran at 421*.

The gravamen of this Petition is that this Court should not allow the Eighth Court of Appeals of Texas to condone Petitioner's abdication through unawareness of his constitutional rights.

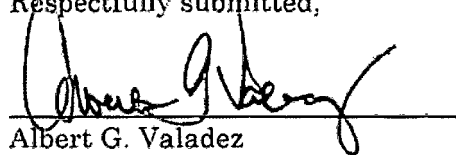
The recorded custodial interrogation unequivocally reveals a violation of the Petitioner's Fifth and Fourteenth Amendments through an unintelligible, mumbled and

self-reading of the waiver of the Petitioner's constitutional rights that is patently in contrast to the opinion of the Eighth Court of Appeals.

CONCLUSION

For the foregoing reasons, the Petitioner respectfully prays this the petition for a writ of certiorari be granted.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Albert G. Valadez", is written over a horizontal line.

Albert G. Valadez

Date: March 2, 2026