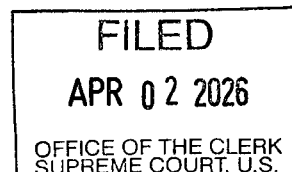


No. 26-5073

ORIGINAL



IN THE
SUPREME COURT OF THE UNITED STATES

RAYMOND E. LUMSDEN — PETITIONER
(Your Name)

vs.

PAUL JOHNSON — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

FIFTH CIRCUIT COURT OF APPEALS
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

RAYMOND E. LUMSDEN
(Your Name)

3201 FM 929
(Address)

GATESVILLE, TX, 76597
(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

1. When an inmate pursues a state post-conviction DNA Testing through the State-Provided litigation process, and then under § 1983 for denial of access to the requested evidence under Due Process, does Rule 12(b)(6) prohibit it as a failure to state a claim upon which relief can be granted, since denying access to the requested evidence for DNA Testing is an injury in fact?
2. Did the Fifth Circuit Court Of Appeals violate clearly established Supreme Court Precedent(s) in dismissing petitioner's appeal as frivolous, denying IFP, and issuing a strike under 28 U.S.C. § 1915(g)?
3. Did the Fifth Circuit Court Of Appeals afford petitioner liberal construal of his pro se filed brief on appeal in attempting to identify the error's in the district court's analysis, and should it have appointed counsel or asked petitioner to amend prior to dismissing it as frivolous and a strike?/

LIST OF PARTIES

A list of all parties to the proceeding in the court whose judgment is the subject of this petition is provided below. If a party is a corporation with a stock ticker symbol, that symbol is also included.

Raymond E. Lumsden

Paul Johnson, District Attorney

RELATED CASES

LUMSDEN V. JOHNSON, NO. 4:21-CV-960, U.S. District Court
For The Eastern District Of Texas.

TABLE OF CONTENTS

OPINIONS BELOW	1
JURISDICTION.....	
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	
STATEMENT OF THE CASE	
REASONS FOR GRANTING THE WRIT	
CONCLUSION.....	

INDEX TO APPENDICES

APPENDIX A	Fifth Circuit Court Of Appeals; U.S. District Court, Eastern District Of Texas
APPENDIX B	
APPENDIX C	
APPENDIX D	
APPENDIX E	
APPENDIX F	

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

Skinner v. Switzer, 562 U.S. 521

Reed v. Goertz, 598 U.S. 230

Gutierrez v. Saenz, 145 S.Ct. 118

STATUTES AND RULES

28 U.S.C. § 1915(g)

Rule 12 (b)(6)

OTHER

Texas Code Of Criminal Procedure, Chapter 64

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 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 United States district court 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.

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

The opinion of the highest state court to review the merits 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 _____ 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 3/11/26.

☒ 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 _____.
A copy of that decision appears at Appendix _____.

☐ A timely petition for rehearing was thereafter denied 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. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Due Process Of Law Violation?

[I am uncertain as to what to write here, I am sorry.]

STATEMENT OF THE CASE

Following this Court's precedent(s) in Skinner; Reed; and also in Gutierrez, petitioner filed a § 1983 civil rights complaint in which he cited an injury under due process for the defendant's denial of access to the requested materials for DNA testing. This, following his Fourt(4) unsuccessful attempts for DNA testing to prove his innocence in State Court under Chapter 64 of the Texas Code Of Criminal Procedure, exactly like the cases above, Supra. The U.S. District Court for the Eastern District of Texas quickly dismissed petitioner's complaint under Rule 12(b)(6), failing to state a claim upon which relief can be granted. Petitioner then appealed to the Fifth Circuit Court Of Appeals who subsequently dismissed his appeal as "frivolous" and counted it as a Strike under 28 U.S.C. § 1915(g).

Petitioner now seeks redress and safety under this Süpreme Court's numerous precedents related to Texas's handling of § 1983 Cases, such as those cited above, that Texas simply refuses to follow or adhere to. Petitioner's case, is identical to Skinner; Reed, and Gutierrez, and he prays for relief.

REASONS FOR GRANTING THE PETITION

Petitioner sufficiently alleged an injury in fact: denial of access to the requested evidence for DNA testing, under Due Process. The defendant, Johnson, in denying access, caused that injury. The district court should not have dismissed petitioner's case because the claim he presented is cognizable under § 1983.

The Fifth Circuit should not have dismissed petitioner's case as frivolous where the appeal was sufficient to meet the threshold even though it may have been poorly written pro se. Both of the petitioner's complaint, and appeal, gave "short and plain" type statements of his claim, as required under Rule 8(a)(2).

Petitioner followed the precedents of this Supreme Court as was opined in Reed; Skinner, and Gutierrez in seeking DNA Testing under Texas post-conviction Chapter 64, then in a § 1983 civil rights complaint. But, Texas Court's, as well as Federal Court's in Texas, refuse to follow, at least in this case, clearly and plainly established Supreme Court precedents, *Id.* Texas, created a statutory right for petitioner to request forensic DNA testing under Chapter 64, thus petitioner moved on that right. When it failed repeatedly as in Skinner; Reed; and Gutierrez, he filed to the best of his ability, pro se, a civil rights complaint and subsequent appeal. And in those pleadings and complaint, accepted as true and in light most favorable to petitioner, requirements of Rule 12(b)(6) were met.

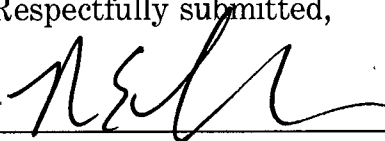
Petitioner's case is spot on with the Supreme Court precedents, *Id.*, parroting them, and where it was opined that they had stated a claim for relief, so too did petitioner's, and it should not have been dismissed. They were not conclusionary allegations, petitioner in fact claimed specifically that governing state law denies him due process, and petitioner's claim can certainly bring relief: DNA testing of the requested items.

Petitioner's appeal was done to the best of his ability, and the Fifth Circuit should not have found it "frivolous" since Skinner; Reed; and Gutierrez has long since defeated that finding.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Date: 6/15/26