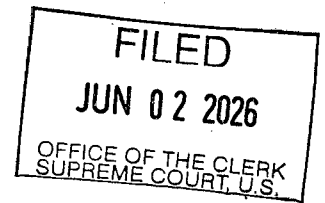


26-5522

No. _____



IN THE
SUPREME COURT OF THE UNITED STATES

ANDRE DUANE BOYD — PETITIONER
(Your Name)

vs.

STATE OF TEXAS — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO
THE UNITED STATES COURT OF APPEALS, FROM THE TEXAS CRIMINAL COURT OF
APPEALS: P.D. 0435-25; FROM THE TENTH COURT OF APPEALS: cause no. 10-22
00165-CR

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

PETITION FOR WRIT OF CERTIORARI

ANDRE DUANE BOYD #02389935
(Your Name)

2661 F.M. 2054 (Coffield Unit)
(Address)

Tennessee colony, Texas 75884
(City, State, Zip Code)

(903)928-2211
(Phone Number)

QUESTION(S) PRESENTED

Whether a state court violates a criminal defendant's rights under the Sixth and Fourteenth Amendments by proceeding to trial on an indictment that was constructively amended without interlineation or proper record, and then relying on the unamended version on appeal.

LIST OF PARTIES

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

[XX] 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:

McLennan County District Attorney's office

Sterling Harmon

219 North 6th St., STE 200

Waco, Texas 76701

Respondent: the State of Texas

RELATED CASES

- 1) Boyd v. State, 2025 Tex. App. Lexis 1880
- 2) Boyd v. State, 688 S.W. 3d. 137 (Tex. App-Waco 2024)
- 3) Criminal Court of Appeals
Boyd v. State : P.D. 0435-25

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TABLE OF AUTHORITIES CITED

CASES

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- 1) Boyd v. State, 688 S.W. 3d. 137 (Tex. App.-Waco 2024)
- 2) Cole v. Arkansas, 333 U.S 196 (1948)
- 3) Stirone v. United States, 361 U.S. 212 (1960)
- 4) Russell v. United States, 369 U.S. 749 (1962)
- 5) United States v. Rojas-Contreras, 474 U.S. 231 (1985)
- 6) United States v. Miller, 471 U.S. 130 (1985)

142-45

STATUTES AND RULES

United States Constitution amendments: V, VI, and XIV

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 B to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished. "Denied w/out written order" on Dec. 18, 2025
white card never sent, returned to court. 1/23/26

The opinion of the Tenth Court of Appeals-Waco court appears at Appendix A to the petition and is

☒ reported at Boyd v. State, 2025 Tex. App. Lexis 1880; 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 12/18/25.
A copy of that decision appears at Appendix A-B. ~~WHITE CARD NEVER SENT,~~
~~RETURNED TO STATE COURT 1/23/26~~

☒ A timely petition for rehearing was thereafter denied on the following date: 01-02-26, and a copy of the order denying rehearing appears at Appendix C.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ____ A ____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

United States Constitution amend. VI: "In all criminal prosecutions, the accused shall enjoy the right...to be informed of the nature and cause of the accusation.."

United States Constitution amend. XIV: " No State shall... deprive any person of life, liberty, or property, without due process of law..."

STATEMENT OF THE CASE

Petitioner was indicted by a Texas grand jury for the offense of Aggravated Robbery, Aggravated Assault-Public Servant, and Evading arrest. At a pretrial hearing the trial court stated that it would strike the word "serious" from the indictment. However, the indictment presented to the jury, and later reviewed on appeal was the original version, unaltered indictment.

Despite this, the appellate court affirmed the conviction based on the original indictment without addressing the discrepancy. Chief Justice Tom Gray dissented in *Boyd v. State*, 688 S.W. 3d. 137, 142-45 (Tex. App.-Waco 2024, pet. ref'd), expressing concern over the failure of the majority to address the interlineation defect. He noted that the majority "disregards the discrepancy between what the trial court said it would do and what appears in the record." And he emphasized that such an error should not be overlooked in determining whether the defendant received fair notice and a fair trial.

This action constituted a constructive amendment in violation of the constitutional right to notice of the charges, a cornerstone of the Sixth Amendment, as incorporated against the states through the Fourteenth Amendment.

REASONS FOR GRANTING THE PETITION

1. CONFLICT WITH ESTABLISHED SUPREME COURT PRECEDENT

In *Stirone v. United States*, this Court held that a conviction based on a materially altered indictment constitutes reversible error. Petitioner's trial proceeded on a theory different from that contained in the indictment. The trial court acknowledged the need to strike the word "serious" from the indictment but failed to formally amend it through interlineation.

2. VIOLATION OF DUE PROCESS AND LACK OF PROPER NOTICE TO DEFENSE

Petitioner was deprived of the opportunity to defend against the actual charges presented at trial. The use of a materially defective indictment, especially one that does not reflect the court's stated intent to modify it violates the Due Process Clause as interpreted by COLE and RUSSELL.

Petitioner was deprived of actual notice. The Sixth Amendment guarantees notice of the nature and cause of the accusation. The record reflects that the defense was led to believe the word "serious" would be removed, but no corrected version of the indictment was ever entered into the record.

Proceeding to trial on an uncorrected indictment-without formal notice or interlineation- resulted in the defense being blindsided by a theory of prosecution that no longer matched the court's own ruling. This deprived the Petitioner of the opportunity to make strategic decisions including how to respond to the charge or present evidence in his defense. This defect directly undermines the reliability and fairness of the trial. The dissent by Chief Justice Gray emphasized that the failure to correct the record calls into question the reliability of the conviction and appellate review. see Appendix A

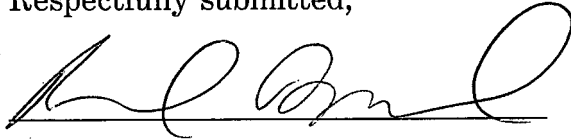
3. IMPORTANCE OF THE ISSUE

The case presents an opportunity for the Court to clarify the boundaries of permissible indictment modifications in state courts. State procedures that allow trials to proceed under misrepresentation or unofficial charging instruments jeopardize the constitutional right to fair notice and undermines appellate review integrity. The presence of a dissenting opinion highlights the legal significance and disagreement over the procedural irregularities.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

A handwritten signature in black ink, appearing to be "K. L. B. L.", written over a horizontal line.

Date: February 4, 2026