No 03-6362 ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

Supreme Court, U.S.
FILED
AUG 25 2003
OFFICE OF THE CLERK

EX PARTE TODD ALTSCHUL — PETITIONER
(Your Name)

vs.

23RD. DISTRICT COURT OF
BRAZORIA COUNTY, TEXAS — RESPONDENT(S)

~~ON PETITION FOR A WRIT OF CERTIORARI TO~~
ON PETITION FOR EXTRAORDINARY WRIT OF HABEAS CORPUS
SUPREME COURT RULE 20

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

~~PETITION FOR WRIT OF CERTIORARI~~
PETITION FOR EXTRAORDINARY WRIT OF HABEAS CORPUS
SUPREME COURT RULE 20

TODD ALTSCHUL #25428-077
(Your Name)
CORRECTIONAL SERVICES CORPORATION
P.O. BOX 3689
(Address)

BEAUMONT, TEXAS 77704
(City, State, Zip Code)

N/A
(Phone Number)

QUESTION(S) PRESENTED

(1) WHEN A CONVICTIONS SENTENCE IS INCREASED BEYOND THE STATUTORY MAXIMUM BASED ON A PRIOR CONVICTION AND LATER THAT PRIOR CONVICTION USED TO INCREASE THE SENTENCE IS COURT ORDERED DISMISSED AFTER CONVICTION WAS HAD, IS THE ENHANCED SENTENCE IN VIOLATION OF THE 8TH. AMENDMENTS PROHIBITION AGAINST CRUEL AND UNUSUAL PUNISHMENT & DUE PROCESS 5 & 14TH. AMENDMENTS U.S. CONSTITUTION.

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[ ] is unpublished.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[ ] is unpublished.

[X] 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,
[X] is unpublished.

The opinion of the 23RD 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[ ] is unpublished.
[X] NOTE: TRIAL COURT REFUSED TO FILE WRITS BECAUSE THE JUDGMENTS 1. ARE MISSING FROM COURTS FILE.

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).

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

The date on which the highest state court decided my case was JULY 14, 2003. A copy of that decision appears at Appendix A.

[ ] A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

NOTE: NO REHEARING ALLOWED WHEN HIGH STATE COURT DENIES WRIT WITH OUT WRITTEN ORDER

[ ] 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).

CONFINEMENT AND RESTRAINT

Petitioner contends that he is unlawfully confined and restrained of his Liberty by the Texas Dept. of Criminal Justice pursuant to Judgments of convictions in Cause # 23557, 15 year sentence for the offense of Deadly weapon in penal INSTitution and cause #26672, 20 year sentence for the offense of Aggravated Assault and cause #26673, 20 year sentence for the offense of Deadly Weapon in penal institution, all convictions were had in the 23rd. District Court of Brazoria County, Texas.

SUMMARY AND HISTORY OF THE CASE

Petitioner challenges three convictions all from the same court:

*(1) TRIAL COURT CAUSE NUMBER: 23557
COURT: 23RD. DISTRICT COURT OF BRAZORIA COUNTY, TEXAS
PETITIONER'S NAME IN JUDGMENT: TODD ALTSCHUL
OFFENSE FOR WHICH CONVICTED: DEADLY WEAPON IN PENAL INSTITUTION
PLEA: NOLO CONTENDERE
SENTENCE: FIFTEEN (15) YEARS - PRISON
SENTENCE DATE: MAY 21, 1992
JUDGE AT THE TRIAL: ALLEN STILLEY
APPEAL NUMBER: N/A
CITATION TO OPINION: N/A

*(2) TRIAL COURT CAUSE NUMBER: 26672
COURT: 23RD. DISTRICT COURT OF BRAZORIA COUNTY, TEXAS
PETITIONERS NAME IN JUDGMENT: TODD ALTSCHUL
OFFENSE FOR WHICH CONVICTED: AGGRAVATED ASSAULT
PLEA: GUILTY
SENTENCE: TWENTY (20) YEARS - PRISON
SENTENCE DATE: JULY 28, 1994
JUDGE AT THE TRIAL: ALLEN STILLEY
APPEAL NUMBER: N/A
CITATION TO OPINION: N/A

*(3) TRIAL COURT CAUSE NUMBER: 26673
COURT: 23RD. DISTRICT COURT OF BRAZORIA COUNTY, TEXAS
PETITIONERS NAME IN JUDGMENT: TODD ALTSCHUL
OFFENSE FOR WHICH CONVICTED: DEADLY WEAPON IN PENAL INSTITUTION
PLEA: GUILTY
SENTENCE: TWENTY (20) YEARS
SENTENCE DATE: JULY 28, 1994
JUDGE AT THE TRIAL: ALLEN STILLEY
APPEAL NUMBER: N/A
CITATION TO OPINION: N/A

APPENDIX B

COPY

CLERK
UNITED STATES DISTRICT COURT
P.O. BOX 3507
BEAUMONT, TEXAS 77704

AUG 1 2003

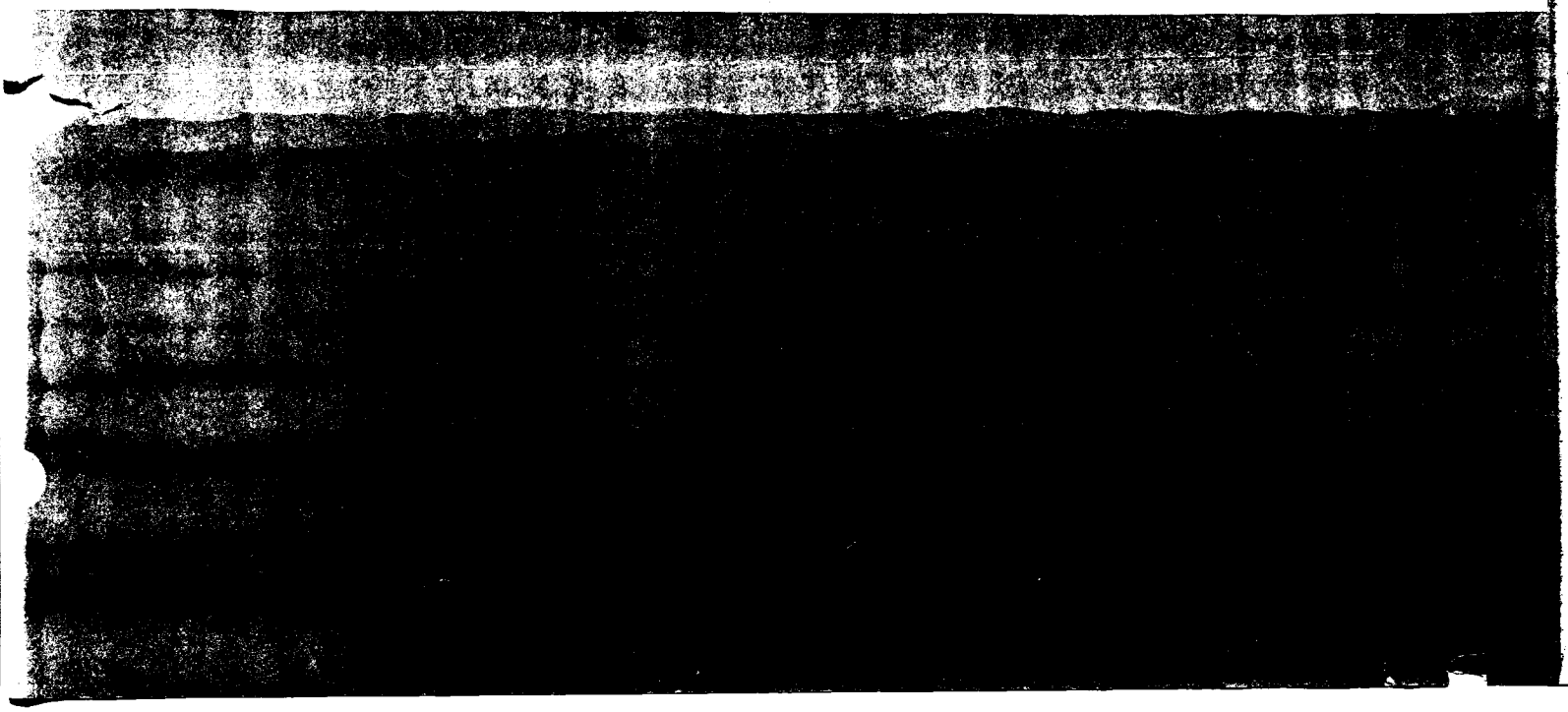
Office of the Clerk

memorandum

Mr. Jadd Altschul,
Your §2254 - applications are being returned and unfiled. Your §2254 applications are properly filled out, however the record reflects that no trial court Judgments are on file. Our office contacted the trial court clerk who verified that convictions were sustained but the Judgments are missing, Therefore without the trial court Judgments your §2254 applications challenging the 3 convictions in Case # 23557, #26672 & #26673, 23rd. District Court of Brazoria Co., Tx., Can not be filed Sorry.

A TRUE COPY I CERTIFY
DAVID J. MALAND, CLERK
U S DISTRICT COURT
EASTERN DISTRICT, TEXAS
BY M Ellis

DAVID J. MALAND
CLERK
BY M Ellis DEPUTY



APPENDIX A

TEXAS COURT OF CRIMINAL APP. NO. 24927-54

OFFICIAL NOTICE FROM COURT OF CRIMINAL APPEALS OF TEXAS
P.O. BOX 12308, CAPITOL STATION, AUSTIN, TEXAS

AUSTIN 1503 TX

METER 5347 U.S. POSTAGE 023

RE Tex.Crim.App. No. 24,92
ST A[illegible]chul, Todd [illegible]
TRIAL CT NO: 23557; [illegible]73
[illegible]/14/2003

MEMORANDUM OPINION

IN RE TODD ALTSCHUL, Relator

Relator requests that this Court rule on his *pro se* petition for writ of habeas corpus. We deny the petition.

It is so **ORDERED**.

PER CURIAM

Todd Warren Altschul
TDCJ ID 586467
Correctional Services Corporation
P. O. Box 3698
Beaumont, TX 77704

CC:
Judge Stilley
23rd District court of Brazoria County