

No. _____

IN THE

SUPREME COURT OF THE UNITED STATES

Michael-Francis: Palma— PETITIONER

vs.

HARRIS COUNTY APPRAISAL DISTRICT - RESPONDENT

ON PETITION FOR A WRIT OF CERTIORARI TO

First Court of Appeals

PETITION FOR WRIT OF CERTIORARI

Michael-Francis: Palma
c/o 5026 Autumn Forest Dr.
Houston, Texas 77091
713-263-9937

QUESTION(S) PRESENTED

A right to hold, or be beneficiary to property, and be secure in one's belongings, especially his shelter, has been held sacred by this court since its beginning. Due process consists of two types. First: Substantive Due Process which focuses on government regulation that deprives a person's fundamental right, which is guaranteed to the person under the U.S Constitution. And second: Procedural Due Process which focuses on fair and timely procedures and may be implicated whenever the government tries to take a life, liberty or property interest of an individual.

Are the following Due Process violations?

- 1) Is it a due process violation by a state agency to not observe basic statutory code construction and a right recognized in a State code, the 4th and 14th Amendments of the Federal Constitution and FRCP 61 when substantive rights apply to property, specifically a home?
- 2) Is it a due process violation by the state judiciary to write an opinion that contradicts itself and current state and federal case law?

Additionally:

- 3) Is an American's shelter still considered sacred as stated in Boyd v. US when an intruding foot be a government foot, "without his leave"?

LIST OF PARTIES

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

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OPINIONS BELOW

The opinion of the First Court of Appeals in Harris County Texas appears at Appendix A to the petition and is believed to be unpublished.

JURISDICTION

The date on which the First Court of Appeals decided the case was on March 27 2018. A copy of that decision appears in Appendix A. A timely petition for reconsideration was thereafter denied on May 22, 2018 and a copy of the order denying rehearing appears at Appendix B.

The Texas Supreme Court denied hearing the case at Appendix C on September 7, 2018 and a motion for reconsideration was denied on November 30, 2018 appears at Appendix D.

An extension of time to file the petition for a writ of certiorari was granted to and including April 29, 2019 on January 1, 2019 in Application No. 18A684.

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

- 1) 4th and 14th Amendments to the Constitution
- 2) Texas Tax code §41.41 et seq supported by Texas Government code §311.016 et seq. Appendix F.
- 3) 42 U.S.C.A. §1983

STATEMENT OF THE CASE

The right to have and hold property without interference is a known legal fact in America. Texas Tax code §41.41 et seq. guarantees that a property owner has the right to contest the inclusion of his or her property onto an appraisal record, or to be more

specific – the county appraisal district must prove that it has the jurisdictional authority to include petitioners home on any appraisal record when the hearing is properly requested by the property owner. The administrative hearing held was a value hearing while the requested hearing under §41.41(a)(3), an inclusion hearing, was summarily denied, all shown in Appendix E. The “exclusive remedy” of a property owner is under §41.41 and is clearly shown in Valero Transmission Co. v. Hays Consol. Independent School Dist. (App. 3 Dist. 1985) 704 S.W.2d 857, ref. n.r.e.

The opinion of the Court of Appeals, Appendix A, fails to address the issue of the right refused under §41.41(a)(3) and in point of fact goes out of its way to contradict itself within the document, runs afoul of long standing case law and American traditions. To wit: the court declared the term “residential” irrelevant but then proceeded to use that term to declare petitioners home as appraisable/taxable – relevant items are highlighted. Petitioner would never use the term “residential” to describe the home as this term is not defined in the Texas Tax code and the courts refused to define the term of art. The opinion discusses “situs,” however situs is only where property is located and has not a thing to do with *why* the home should be included on an appraisal record. Situs is found in Texas Tax code §41.42 to determine *which* appraisal record the property should be on (Appendix G) and can only be determined *after* it is found that property must be included on an appraisal record at all. Situs is not a right mentioned in Valero Transmission Co. v. Hays Consol. Independent School Dist.

The Texas Supreme Court refused to correct the issue. (Appendix C & D).

REASON(S) FOR GRANTING THE PETITION

The right to own and hold property is guaranteed by the protections in the 4th Amendment to the Constitution and enforceable on the Union states under the 14th

Amendment to the Constitution, federal law and case law, and was one of the pillars of English Common Law, prior to the founding of the country. Representative cases are Smith v. Texas, 233 US 630, 636, 58 L.Ed. 1129 (1913) wherein property rights were held as one of the “bundle of rights” protected by the Constitution and as stated in Florida v. Jardines, 133 S. Ct. 1409, 223-224, 569 U.S. Reports 1, 7-8 (2013) “we were careful to note that it was done “in a physically nonintrusive “undoubtedly familiar” to “every American statesman” at the time of the Founding, Boyd v. United States, 116 U. S. 616, 626 (1886) , states the general rule clearly: “[O]ur law holds the property of every man so sacred, that no man can set his foot upon his neighbour’s close without his leave.” Entick v. Carrington, 2 Wils. K. B. at 291, 95 Eng. Rep., at 817.” Also stated in Florida v. Jardines: “But when it comes to the Fourth Amendment, the home is first among equals. At the Amendment’s “very core” stands “the right of a man to retreat into his own home and there be free from unreasonable governmental intrusion.” Silverman v. United States, 365 U. S. 505, 511 (1961).”

In point of fact the Texas Supreme Court has ruled against state agencies from interfering in private homes and land in several cases: Severance v. Patterson, 370 S.W.3d 705, 55, Tex. Sup. Ct. J. 501, Koch v Texas GLO, 273 S.W. 3rd, 451 (Dec, 19 2008), and Bush v. Lone Oak Club, LLC, 546 SW3d 766 (Feb 22,2018) to name a few, but refused to uphold the right provided in §41.41(a)(3) which is supported by Texas Government code §311.016 et seq. (Appendix F) The long held rights to have and hold property should not be summarily dismissed by any court in America or the United States.

The “exclusive” rights of property owners are recognized by Texas State in Texas Tax code §41.41 et seq. The failure of a county and state agencies to acknowledge the

only right a property owner has to protect his property from government intrusion, §41.41(a)(3), is akin to a due process violation, an unreasonable governmental intrusion and may also be construed as an involuntary taking of the property's value over time. For Texas agencies, administrative and judicial, in their entirety to disavow that single right contravenes all that has gone before and has now happened for four years in a row to this petitioner; there are five more court cases on their way to this Court concerning this one issue. With the knowledge that this is occurring in Harris County, the largest county in Texas, year after year; can there be any doubt that it may also occur in the remaining 253 Texas counties?

Justice Kavanaugh stated in his confirmation hearings: "Due process is a foundation of the American rule of law. Due process means listening to both sides," and "We live in a country devoted to due process and the rule of law. That means taking allegations seriously."

CONCLUSION

Petitioner humbly asks this body to uphold long cherished rights and to enjoin the respondent to do what it is required to do, hold the §41.41(a)(3) hearing. For doing so will prevent the petitioner's and others in Texas due process rights from being violated, protect property rights, and ensure that the respondent produces suitable evidence to show *why* petitioner's home should be on any appraisal record and not what appraisal record it should be on.

If the Justices' will permit me to sum it up this way: The right of an inclusion hearing to protect one's Constitutional Homestead, under the 4th Amendment, and to force the State to prove that it has any jurisdictional authority over it is akin to the Constitutional Second Amendment. For if a State denies access to ammunition it has

effectively nullified the Second Amendment and the right to being able to use a firearm to protect one's home – otherwise known as the Castle Doctrine. The denial of a right to a hearing has the same effect as the denial to ammunition; the inability of an American to deny access to his private home to any and all intruders: be they a state/county agency attempting to misapply the law, or a physical intruder. Each right would become nothing more than a Constitutional nullity and Property Rights as Americans have known it, or believed in, since before the founding of the Union will cease to exist. In Texas, the administrative Castle Doctrine is known as an inclusion hearing in §41.41(a)(3) enforceable under the 4th Amendment and is as much a right as is the Second Amendment is to protect one's property. This Court now has the ability to enforce this right or allow it to be laid to rest along with property rights in general; thereby effectively removing it from America's long held "bundle of rights."

The petition for a writ of certiorari should be granted.

Respectfully submitted,


Dated: April 3, 2019

No. _____

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SUPREME COURT OF THE UNITED STATES

Michael-Francis: Palma— PETITIONER

vs.

HARRIS COUNTY APPRAISAL DISTRICT – RESPONDENT

PROOF OF SERVICE

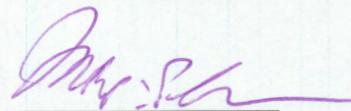
I, Michael-Francis: Palma, do swear or declare that on this date, April 8 2019 as required by Supreme Court Rule 29 I have served the enclosed MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS* and PETITION FOR A WRIT OF CERTIORARI on each party to the above proceeding or that party's counsel, and on every other person required to be served, by depositing an envelope containing the above documents in the United States mail properly addressed to each of them and with first-class postage prepaid, or by delivery to a third-party commercial carrier for delivery within 3 calendar days.

The names and addresses of those served are as follows:

Mr. Keith A. Toler
Harris County Attorney's Office
1019 Congress, 15th floor
Houston, Texas 77002

I declare under penalty of perjury that the foregoing is true and correct.

Executed on April 3, 2019



(Signature)