

NEWS RELEASES

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QUINNCY MCNEAL  
HOUSTON:  
713.525.6253  
QUINNCY.MCNEAL@  
HUSCHBLACKWELL.COM

DOMINIC CASTILLO  
AUSTIN:  
512.479.1174  
DOMINIC.CASTILLO@  
HUSCHBLACKWELL.COM

# U.S. Supreme Court to Examine Statute of Limitations on DNA Testing

On April 25, 2022, the United States Supreme Court granted certiorari to Rodney Reed, who is appealing an April 2021 decision by the U.S. Court of Appeals for the Fifth Circuit that the statute of limitations had run out on his federal suit seeking to reverse a Texas state court decision denying him DNA testing of evidence in his case.

Reed, a Texas death row prisoner who was convicted of murder in 1996, says that DNA testing of evidence would prove his innocence. The High Court will determine during October Term 2022 if the statute of limitations on his Section 1983 claim, which Reed brought to challenge the Texas state courts' denial of his request for DNA testing under state law, begins after the initial state trial court denies testing or after all state litigation, including all state appeals, concludes.

“There is currently a circuit split in the interpretation of this issue when a defendant, who is denied DNA testing under a state statute, sues under Section 1983, as Mr. Reed did, for access to the testing under the state law. Puzzlingly, the Fifth and the Seventh Circuits say the limitations period on the 1983 claim begins ticking the moment the initial state district court judge denies the request, even though the state appeals courts have not said a word on the matter at that point,” said Quinncy McNeal, who is leading the pro bono representation efforts of Reed for Husch Blackwell. “Our position, and that of the Eleventh Circuit, is that Mr. Reed needed to exhaust his legal options at the state level—all of them, including all state appeals—before the proverbial clock starts ticking.”

Prior to joining the defense team in 2015, McNeal had been following Mr. Reed's case since 2004 as an investigative reporter with FOX 7 Austin.

# HUSCH BLACKWELL

The Husch Blackwell team of McNeal, Dominic Castillo and others, are defending Reed alongside the Innocence Project.