

No. 19A678

IN THE
SUPREME COURT OF THE UNITED STATES

Luis Ray Jaramillo, Jr.
Petitioner,
vs.

LORIE DAVIS, REGIONAL DIRECTOR,
TEXAS DEPARTMENT OF CRIMINAL JUSTICE -
CORRECTIONAL INSTITUTIONS DIVISION
Respondent.

PROOF OF SERVICE

I, Luis Ray Jaramillo, Jr., do swear or declare that on this date, February 12, 2020, as required by Supreme Court Rule 29, I have placed in the Coffield Prison mailing system the enclosed MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS and PETITION FOR A WRIT OF CERTIORARI to the Supreme Court of the United States, Office of the Clerk, Washington, D.C. 20543-0001, and assumes the Clerk - Lyle W. Cayce of the United States Court of Appeals for the Fifth Circuit is subscribed to the "E.C.F. Program" and humbly asks the Supreme Court to electronically serve

defendant whether the issue is raised or not; KUYAVA vs. STATE, 583 S.W.2d 627 (Tex.Crim.App. 1976). Because the "INQUIRY" come from another lower-court, neither did the 290th. District court further INQUIRE into the issue of Petitioner's mental health issues. The trial court in the present case erred and abuse its discretion by not conducting informal inquiry into the Petitioner's competency duryng the plea proceeding when the record reflected that he had an ONGOING history of mental illness as reflected in the Bexar County M.H.M.R. & central Medical Records that was signed authorizing disclosure of this Health information for legal proceedings. Attorney Keith Engelke possesses that document. Petitioner has been treated in Bexar County-M.H.M.R. BY a list physicians (to the present day even) and has multiple diagnosis of Bi-polar Syndrome Disorder, Reports having problems with Depression, Minimal Audorty Hellucinations, Reports social isolation due to paranoia. The Petitioner was hearing voices and taking psychoactive medication at the time he ENTERED the "plea of true" and trial counsel for the Petitioner had been informed of these events. Petitioner holds the revocation court in error, and in violation of his substantive due process Right to a fair trial/revocation hearing; under TEX.CODE CRIM.PROC. Article-46B.004(c-1), a suggestion of incompetency is the "THRESHOLD REQUIREMENT" for an informal inquiry under section(c) of the Article and may consist soley of a representation from any credible source that the defendant may be incompetent to stand trial/revocation. As stated in Subsection(c-1) of Article-46B.004; the Legislature intended the 'Bexar County-M.H.M.R. & Central Medical Records' that was authorized for disclosure in the revocation proceedings suggests the THRESHOLD REQUIREMENT required by that Article,Subsection(c-1) goes further to state, an evidentary showing in not required to have a 'Bonafide' doubt about the incompetency of the defendant. As written by the legislature in this part of 46B.004(c-1) the 'bona fide doubt standard' in MONTOYA vs. STATE, 291 S.W.3d at 425, has been overruled and reinstates the "informal inquiry standard" in Subsection(c). The State may argue that the evidence in this case does not raise a 'bona fide doubt' to the Petitioner's competence; because he understands questions, and appeared to be coherent and alert, and he conferred with his Attorney; the legislature's changes to Article-46B.004(c-1) adhears to the "U.S. Supreme Court's" ruling in PATE vs. ROBINSON, 383 U.S. 375(1966); in which that Court held in that case:"the evidence raised a sufficient doubt as to the Respondent's competence to stand trial so that the Respondent was deprived of Due Process of Law under the "14TH.-Amendment" by the trial

Lyle W. Cayce, and every other person required to be served upon receipt of these documents, because of Petitioner-Jaramillo's indigence and inability to do so due to his imprisonment.

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

Executed on February 12, 2020.

Luis Jaramillo

Luis Ray Jaramillo, Jr.

T.D.C.D. #1966673

Coffield Unit

2661 FM 2054

Tennessee Colony, TX. 75884

Petitioner

Pro-Se

violations to his probation or acted with culpable mental state in this revocation Petitioner is actually innocent and is entitled to an acquittal. The Petitioner's 'Plea of True' is involuntary in violation of the Tex Code of Criminal Procedure Article-26.13(b), "No plea of guilty shall be accepted by the court unless it appears that the defendant is mentally competent and the plea is free and voluntary. competency and informal inquiry into competency, is reviewed for an abuse of discretion as to the totality of the facts surrounding a trial court's implied decision not to hold a competency inquiry; MOORE vs. STATE, 999 S.W. 2d 385,393 (Tex.Crim.App. 1999). A person is incompetent to stand trial/revocation if the person does not have (1) sufficient ability to consult with a persons' lawyer with reasonable degree; or (2) a rational as well as factual understanding of the proceeding against the person; TEX.CODE CRIM.PROC. Article-46B.003(a)(2011); FULLER vs. STATE, 253 S.W. 2d 220,228 (Tex.Crim.App. 2008). A defendant is presumed competent to stand trial and shall be found competent to stand trial unless proved incompetent by a preponderance of the evidence, TEX.CODE CRIM.PROC.Art.-46B.003(b)(2011). If evidence suggesting the defendant may be incompetent to stand trial comes to the attention of the trial court, the court on its own shall suggest that the defendant maybe incompetent to stand trial, TEX.CODE CRIM.PROC. Article-46B.004(b)(2011). On suggestion that the defendant maybe incompetent to stand trial the court shall determine by informal inquiry, whether there is some evidence from any credible source that would support a finding that the defendant may be incompetent to stand trial, TEX.CODE CRIM.PROC. Article-46B.004(c)(2011). If after on informal inquiry, the trial court determines that evidence exists to support a finding of incompetency, the court shall order an examination to determine whether the defendant is incompetent to stand trial in a criminal case, TEX.CODE CRIM.PROC. Article-46B.005(a)(2011); SALAHUD-DIN vs. STATE, 206 S.W.3d 203,208 (Tex.App.Corpus Christi-2006). The '290th. District court of Bexar County failed to make a sufficient inquiry into the Petitioner's incompetence to stand trial/revocation before accepting his "Plea of True". Originally the inquiry into the Petitioner's incompetence was made; before the 'Mar.18,2014', resentencing onto retaliation-for-appealing amended-sex-offender-probation; at a misdemeanor proceeding (see Pet.App. 3a, Page:27-31; but filed in Federal Court as: '28 of 80' throu '32 of 80', DOCUMENT-32) (see Pet. App. 3a, EXHIBIT-H). The TEXAS CODE of CRIMINAL PROCEDURE "prohibits" a trial court from accepting a Guilty Plea unless it appears that the defendant is mentally competent, TEX.CODE CRIM.PROC. Art.-26.13(b)(2007); the better practice is for the trial court to INQUIRE into the mental competency of the