

20-1558

No. 21-

Supreme Court, U.S.  
FILED

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In the  
**Supreme Court of the United States**

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VINAY YADAV,

*Petitioner,*

v.

STATE OF TEXAS,

*Respondent.*

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On Petition for a Writ of Certiorari to the  
Court of Criminal Appeals of State of Texas  
and Texas Fourth Court of Appeals

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**PETITION FOR A WRIT OF CERTIORARI**

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## **I. QUESTIONS PRESENTED**

1. Texas contravenes the Due Process Clause of the U.S. Constitution on multi-count and contradicts SCOTUS. SCOTUS has yet to answer all States contradicting due process against Fourteenth Amendment whether COA/Texas-courts :-
  - a. Prohibit all critical defense-witnesses waiting to testify,
  - b. Prohibit recross to impeach the State-Perjurers present-outside subject-to-recall,
  - c. Neglect perplexed Jury's actual law-questions in-deliberations?
2. Texas prohibits all the Constitutional Rights of innocent citizens, and contradicts SCOTUS & Federal Laws against Sixth and Ninth Amendments. Whether COA/Texas-courts contravene the U.S. Constitution and Federal laws to :-
  - a. Foster malicious-prosecution, but prohibit Right of innocent citizens' own-summation, and unreasonably off the record to deprive them,
  - b. Deny innocent citizen's Right-to-Represent themselves,
  - c. Deny innocent citizens' Right-to-Testify under-oath,
  - d. Exempt Corrupt-enterprise-Perjurers to abet white-collar-crimes depriving innocent citizens of their civil rights?

(....questions continued to next page)

3. Texas misinterprets and contravenes the Texas Laws and contradicts SCOTUS & CCA. SCOTUS has yet to answer whether an active-employee can be involuntarily servitude and false-imprisoned at his employment for a fake-trespass without cause or warrant against the Thirteenth Amendment, § 1, and whether COA/Texas-courts with scienter :-
  - a. Oppress applicable Texas-laws from Jury despite repeated lucid-objections during charge formulation (What is employees' defense from Trespass-charge at their own work?),
  - b. Breach Texas-laws to unlawfully deny innocent citizen's rightful Directed-Verdict (Does "falling Petitioner's weak body to the ground due to off-duty-police's excessive use-of-force-assault-injuries" call Resisting?),
  - c. Promote malicious fabricated/defective-complaints despite innocent Citizen not even committed a civil-offence,
  - d. Unlawfully deny Motion-to-Reopen during guilt-innocence-phase,
  - e. Filibuster hearings on New-Trial Motions?
4. Texas contravenes the Rules of Evidence against the U.S. & Texas Constitution and contradicts Federal Laws. SCOTUS has yet to answer whether unreasonable search and seizure at employment without any warrant or cause using off-duty State's force against the Fourth Amendment applies to States, and whether COA/Texas-courts:-
  - a. Exclude critical-evidence after proper foundation & explicit-authentications,
  - b. Aid unlawful seizure, admit spoliation legal-insufficient concealed-evidence and prohibit disproof against it,
  - c. Propagandize irrelevant contextless hearsays,
  - d. Neglect Expert's demonstration on unlawful use-of-force violating Texas rules regulations?

## **II. PARTIES TO THE PROCEEDING AND CASES**

### **A. Parties to the Proceeding**

The parties to this proceeding are petitioner “Vinay Yadav” and respondent “The State of Texas.”

### **B. Rule 29.6 Disclosure**

Bexar County is a state entity of the State of Texas. Employer FrostBank is a C-corporation.

### **C. Related Proceedings**

*Yadav v. State*, No. PD-0864-20 & PD-0865-20, (Court of Criminal Appeals of Texas, Judgment entered Dec. 9, 2020).

*Yadav v. State*, No. 04-19-00483-CR & 04-19-00486-CR, (Tex. App. Fourth Court of Appeals, San Antonio, Texas, Judgment entered Aug. 12, 2020.)

*State v. Yadav*, No. 601415 & 601414, (County Court#15, Bexar County, San Antonio, Texas. Judgment entered July 8, 2019).

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## PETITION FOR A WRIT OF CERTIORARI

Petitioner Vinay Yadav respectfully petition for a writ of certiorari to review the refusal of Petition for Discretionary Review by the Texas Court of Criminal Appeals on OPINION of Fourth Court of Appeals.

### V. OPINIONS BELOW

#### TEXAS TRIALCOURT

Bexar county court (“**Trialcourt**”) issued identical contravening-judgements on two false COMPLAINTS Nos. 601415 & 601414 on July 8, 2019. Petitioner moved Motions for New Trial on record in court immediately same day on July 8, 2019. Petitioner filed two written identical Motions for New Trial on Aug 7, 2019. Trialcourt neither conducted any hearings nor ruled on the Motions for New Trial.

#### TEXAS COA AFFIRMATION

Petitioner filed identical Appeals (04-19-00483-CR & 04-19-00486-CR) in the Texas Fourth Court of Appeals (“**COA**”) on July 9, 2019 and July 16, 2019 respectively. On Aug 12, 2020, COA handed down its identical contravening distorted OPINION with affirmation Judgement. (See Appendix-B)

#### TEXAS CCA REFUSAL

Petitioner filed identical petitions (PD-0864-20 & PD-0865-20) for discretionary review in the Texas Court of Criminal Appeals (“**CCA**”) on Nov 6, 2020. On Dec 9, 2020, CCA refused petitions for discretionary review. (See Appendix-A)

## **VI. JURISDICTION**

On Dec 9, 2020, the highest court of the State of Texas, CCA, refused Petitioner's timely petition for discretionary review of the Fourth COA affirmance judgment OPINION issued on Aug 12, 2020. Refusal to review an judgment with opinion reviewable by the Texas CCA, makes the Fourth COA "the highest court of [Texas] in which a decision could be had" for purposes of this Court's jurisdiction under 28 U.S.C. § 1257(a). The U.S. Supreme Court ("SCOTUS"), therefore has jurisdiction over the Fourth COA affirmation. Sixty days Covid-extension is applied.

28 U.S.C. § 2403(a) may apply. Petition is being emailed to the Solicitor General of the United States. This Court has not certified to the Attorney General the fact that the constitutionality of an Act of Congress maybe in question.

## **VII. RELEVANT CONSTITUTIONAL, STATUTORY AND REGULATORY PROVISIONS**

For a strict scrutiny of Questions of Constitutionality, Bill of Rights, Federal (*See Verbatim in Appendix-C*):-

### **i. THE U.S. CONSTITUTION**

(App'x.C.22)

U.S.Const.amend.-IV, V, VI, IX, XIII, XIV, § 1;

### **ii. TEXAS BILL OF RIGHTS**

(App'x.C.23C.22)

Tex.Const.art.-I, §§ 9, 10, 13, 19, 29;

### **iii. FEDERAL LAWS**

18 U.S.C. §§ 241, 371, 1005, 1519, 1621, 1622, 1623, 1959, 1962, 3481 & 42 U.S.C. § 1983;

#### iv. TEXAS STATUTES

TEX.PENAL §§ 7.21, 7.22, 7.23, 15.01, 15.02, 20.01, 20.02, 22.01, 22.02, 30.05(e)(3), 37.02, 37.03, 37.04, 37.09, Tex. Vernon's Statutes Art. 581-29-3. Criminal Responsibility of Corporation;

TEX.C.CR.PROC.art-1.05, 1.06, 1.25, 2.01, 36.02, 36.14, 45.019(a)(4), 45.032; TEX.R.APP.P.-21.4, 21.6; Bexar-County policy/procedures § 9.01;

#### v. TEXAS EMPLOYEE DEFENSE

(App'x.C.25)

Texas Penal Code § 30.05(e)(3)

#### vi. RIGHTS OF ACCUSED

(App'x.C.25)

TEX.C.CR.PROC.art-1.05;

#### vii. RIGHT TO HAVE DEFENSE WITNESSES

(App'x.C.25)

*Washington v. Texas*, 388 U.S. 14, 19 (1967);

#### viii. RIGHT TO CROSS-EXAMINE

(App'x.C.26)

*Pointer v. Texas*, 380 U.S. 400, 404, 406-7 (1965);

*In Re Oliver*, 333 U.S. 257, 273 (1948);

TEX.C.CR.PROC.art-1.25;

#### ix. RIGHT TO ANSWER JURY'S LAW QUESTIONS

IN-DELIBERATION

(App'x.C.27)

*Quercia v. United States*, 289 U.S. 466, 469 (1933);

*Starr v. United States*, 153 U.S. 614, 626 (1894);

*Bollenbach v. United States*, 326 U.S. 607, 612 (1946);

*Walters v. State*, 247 S.W.3d 204, 208 (Tex.Cr.App.2008);

*People v. Harmon*, 104 Ill. App. 2d 294, 301 (Ill. App. Ct. 1968);

*People v. Gonzalez*, 293 N.Y. 259, 261 (N.Y. 1944);

*People v. Shannon*, 206 Ill. App. 3d 310, 312, 564 N.E.2d 198, 202-03 (Ill. App. Ct. 1990);  
*People v. Kucala*, 7 Ill. App. 3d 1029, 1035, 288 N.E.2d 622, 626-27 (Ill. App. Ct. 1972); *People v. Morris*, 81 Ill. App. 3d 288, 290, 401 N.E.2d 284, 286 (Ill. App. Ct. 1980);

**x. RIGHT OF OWN SUMMATION**

(App'x.C.29)

*Herring v. New York*, 422 U.S. 853 (1975);  
*State v. Raper*, 166 S.E. 314, 203 N.C. 489, 492 (N.C. 1932);  
*State v. Eury*, 317 N.C. 511, 517 (N.C. 1986);

**xi. RIGHT AGAINST MALICIOUS PROSECUTION**

(App'x.C.29)

TEX.C.CR.PROC.art-2.01  
*State v. Williams*, 317 N.C. 474, 483 (1986);  
*People v. Mahoney*, 201 Cal. 618, 627 (Cal. 1927); *People v. Dickman*, 143 Cal.App.2d Supp. 833, 836 (Cal. Super. 1956);

**xii. INDIVIDUAL RIGHT TO SELF-REPRESENT**

(App'x.C.30)

*Faretta v. California*, 422 U.S. 806 (1975);  
*McCoy v. Louisiana*, 138 S.Ct. 1500, 1508 (2018);

**xiii. RIGHT TO TESTIFY**

(App'x.C.31)

18 U.S.C. § 3481;  
*Rock v. Arkansas*, 483 U.S. 44, 49-53 (1987);

**xiv. RIGHT TO CONFRONT AGAINST PERJURIES**

(App'x.C.32)

18 U.S.C. §§ 1621, 1622, 1623;  
 18 U.S.C. § 1005 - Bank Fraud & False Statements;  
 TEX.PENAL §§ 37.02, 37.03, 37.04;  
*Napue v. Illinois*, 360 U.S. 264 (1959);  
*Giglio v. United States*, 405 U.S. 150 (1972);

**xv. RIGHT OF SPECIFIC CHARGE**

(App'x.C.34)

TEX.C.CR.PROC.art-36.14;  
TEX.C.CR.PROC.art-45.019(a)(4);  
*Cole v. Arkansas*, 333 U.S. 196, 201 (1948);  
*Williams v. State*, 12 Tex.App. 395 (1882);

**xvi. RIGHT OF DIRECTED VERDICT**

(App'x.C.35)

Tex.C.Cr.Proc.art-45.032;  
*Agnew v. State*, 635 S.W.2d 167 (Tex.App.1982);  
*Raymond v. State*, 640 S.W.2d 678, 679 (Tex.App. 1982);  
*Leos v. State*, 880 S.W.2d 180, 184 (Tex.App. 1994);  
*Derichsweiler v. State*, 348 S.W.3d 906 (Tex.Cr.App.2011)(preventing *Derichsweiler* from leaving parking-spot where he parked “is not a criminal-trespass simply to ‘mill around’” *Bobo*;  
*Langston v. State*, 855 S.W.2d 718, 719 (Tex.Cr.App.1993);

**xvii. RIGHT TO REOPEN**

(App'x.C.36)

TEX.C.CR.PROC.art-36.02;  
*Kepley v. State*, 391 S.W.2d 423, 425 (Tex.Cr.App.1965);  
*People v. Goff*, 299 Ill.App.3d 944, 949, 234 Ill.Dec. 133, 702 N.E.2d 299 (1998);

**xviii. UNLAWFUL & EXCESSIVE USE OF FORCE**

(App'x.C.37)

TEXAS CONSTITUTION - BILL OF RIGHTS ARTICLE I, § 29;  
Federal Civil Rights Act of 1871 (42 U.S.C. § 1983) 60 A.L.R. Fed. 204 (1982);  
Bexar-County-Policy/Procedures § 9.01 (CHAPTER 9 – Use of Force REV. APR 15, 2014);

**xix. EVIDENCE DESTRUCTION, TAMPERING  
SPOILIATION**

(App'x.C.38)

18 U.S.C. § 1519; *United States v. Hunt*, 526 F.3d 739,  
743 (11<sup>th</sup> Cir. 2008);  
TEX.PENAL § 37.09;

**xx. UNREASONABLE SEIZURES**  
(App'x.C.38)

TEX.C.CR.PROC.art-1.06;

**xxi. CONSPIRACY AGAINST CIVIL RIGHTS**  
(App'x.C.39)

18 U.S.C. § 241;

**xxii. CONSPIRACY TO COMMIT OFFENSE OR TO  
DEFRAUD**  
(App'x.C.39)

18 U.S.C. § 371;  
TEX.PENAL §§ 15.01, 15.02 - Criminal Conspiracy;  
Tex. Vernon's Statutes Art. 581-29-3. Criminal  
Responsibility of Corporation;  
Tex.CPRC § 66.001(5)(Quo Warranto : "a corporation  
exercises power not granted by law");  
"Unlawful Restraint": TEX.PENAL §§ 20.01, 20.02;  
TEX.PENAL §§ 7.21 (2)(B), (C) & 7.22 (b)(2)("Criminal  
Responsibility of Corporation");  
TEX.PENAL §§ 7.23 (a) & (b)("Criminal Responsibility of  
person for conduct in behalf of Corporation");  
*Burlington Industries, Inc. v. Ellerth*, 524 U.S. 742, 743  
(1998) ("A master is subject to liability for the torts of  
his servants committed while acting in the scope of  
their employment. Restatement § 219(1)")

**xxiii. FEDERAL & TEXAS RULES OF EVIDENCE**  
(App'x.C.41)

TEX./FED.R.EVID.Rule-402, Rule-403, Rule-404, Rule-  
901(b)(1),(4);

### VIII. STATEMENT OF THE CASE

#### NATURE OF THE CASE

On Nov 19, 2018, FrostBank collusive State of Texas brought an unlawful trespass cause-of-action at Petitioner's employer FrostBank, and a false resist-search-AND-transportation cause-of-action by falsely stating, "using Force against said complainant, to-wit: Pushing the complainant with hand AND flinging body". Case# 601414 (CR<sub>1</sub> 10) & 601415 (CR<sub>2</sub> 12)

#### TRIAL COURT DISPOSITION

On July 8, 2019, Trialcourt<sup>1</sup> entered two foul judgments on each cause against Petitioner (CR<sub>1</sub> 163-166; CR<sub>2</sub> 175-176,182-183). On each judgement, Trialcourt wrongfully charged the fines of \$500 each, the court costs: \$332 & \$302, six months in jail probated for 18 months with supervision/urinalysis/admin fees of \$662 each, 60 hours of community services \$450 each, APSE Stress course \$400, and no-contact with Petitioner's then employer FrostBank located at One Frost, 3838 Rogers Road, San Antonio TX. (RR<sub>9</sub> 43)

#### COURT OF APPEALS OPINION

*Pro se* Petitioner timely filed identical Appeals on sixteen questions pertaining to clear violations of the U.S. Constitution, Federal & State laws, in the Texas Fourth Court of Appeals on July 9, 2019 & July 16, 2019, and requested to consolidate.

On Aug 12, 2020, Texas COA<sup>2</sup> handed down two exact identical prevaricated and distorted OPINIONS by putting on its own facts nowhere in any records (Appendix-B: 04-19-00483-CR & 04-19-00486-CR).

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<sup>1</sup> Hon. Melissa Vara, Bexar County Court-15, San Antonio, TX. Petitioner has now already served the whole wrongful-sentence & conditions and paid all the wrongfully charged fines.

<sup>2</sup> Hon. Rebeca C. Martinez, Irene Rios, Beth Watkins, Fourth Court of Appeals, San Antonio, TX



## CCA REFUSAL

*Pro Se* Petitioner timely filed identical petitions for discretionary review (PDR) of all sixteen questions pertaining to clear violations of the U.S. Constitution, Federal & State laws, in Texas CCA on Nov 6, 2020. On Dec 9, 2020, CCA refused the PDR (Appendix-A: PD-0864-20 & PD-0865-20).

Texas-courts & COA contravene the U.S. CONSTITUTION, Federal & Texas-laws on each of original sixteen constitution and law questions raised. Prevaricated COA OPINION with its significant ambiguities maculate the judiciary, neglect Texas-affirmative-defense laws, and violate the U.S. CONSTITUTION, TEXAS CONSTITUTION, Federal & State laws and Rules of Evidence: drastic transgressive exclusion of critical evidence & the legal insufficiency of the evidence presented in relation to the rules. Reporter's record surveillance-videos itself exhibit many violations of the constitution and technical errors of law that OPINION unconstitutionally completely neglects and utterly distorts the facts in favor of FrostBank's perjuries. Despite two objection-letters to COA and a letter from the court-reporter herself stating that Reporter had missed providing the actual contents and proprietary software to view the actual evidence surveillance-videos timestamps, COA unconstitutionally neglects all exhibits from CLERK-RECORD, main facts from expert-witness ("Expert") & EVIDENCE-VIDEOS from REPORTER-RECORD. Despite crystalline evidence that Petitioner committed no crimes and the fact that Petitioner is a

victim of FrostBank white-collar-crimes corporate-corruption malfeasance abetted by Bexar-county, Texas-courts affirmations by COA wrongfully punish innocent law-abiding citizens. Texas-courts & COA contradict SCOTUS on the U.S. Constitution and Federal laws in this case highlighted below: <sup>3</sup>

1. COA/Texas-courts contravene the U.S.Const.amend.-VI & XIV, contradict *Washington v. Texas*, 388 U.S. 14, 19 (1967) and prohibit critical defense-witnesses who wait outside to testify.
2. COA/Texas-courts contravene the U.S.Const.amend.-VI & XIV, Tex-Const-art.-I, § 10, TEX.C.CR.PROC.art-1.05, 1.25, contradict *Pointer v. Texas*, 380 U.S. 400, 404, 406-7 (1965); *In Re Oliver*, 333 U.S. 257, 273 (1948), and exempt impeachment-recross of state-perjurers present outside to testify.
3. COA/Texas-courts contravene U.S.Const.amend.-VI & XIV, contradict *Quercia v. United States*, 289 U.S. 466, 469 (1933); *Starr v. United States*, 153 U.S. 614, 626 (1894) on Trialjudge nonresponse refusing to illuminate actual-law when perplexed-jury in-deliberation asks law-questions.
4. COA/Texas-courts contravene the U.S.Const.amend.-VI & XIV, contradict *Herring v. New York*, 422 U.S. 853 (1975), and prohibit Petitioner from his own-summation. Conversely, Trialjudge allows prosecutors' inferences unsupported by any evidence, and unconstitutionally offs the record unreasonably during critical-hearing to deprive Petitioner of his objections/hearing from preserving Trialcourt-violations for appeal.
5. COA/Texas-courts contravene the U.S. CONSTITUTION, contradict *Faretta v. California*, 422

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<sup>3</sup> Trialcourt Record references are summarized in Appendix-D.

- U.S. 806 (1975); *McCoy v. Louisiana*, 138 S.Ct. 1500, 1508 (2018), and deprive Petitioner of his constitutional-rights of defending himself, when he voluntarily and intelligently wants to do so. Trialcourt forces Petitioner against his will.
6. COA/Texas-courts contravene U.S.Const.amend.-V, VI, XIV, 18 U.S.C. § 3481, contradict *Rock v. Arkansas*, 483 U.S. 44, 49-53 (1987), deprive Petitioner of his constitutional-right to testify, and deny Petitioner's endeavor to speak the truth.
  7. COA/Texas-courts contravene the U.S.Const.amend.-XIII, XIV, Tex·Const-art.-I, §§ 13, 19, 18 U.S.C. §§ 1621, 1622, 1623, TEX.PENAL §§ 37.02, 37.03, 37.04, contradict *Napue v. Illinois*, 360 U.S. 264 (1959), and neglect CLERK/REPORTER-RECORD, prohibit perjury-charges & spoliation-proofs against state-perjurers, aid corrupt-enterprise collusive State-deceitful-prosecution and abet corrupt-enterprise's white-collar-crimes to deprive Petitioner of his civil rights.
  8. COA/Texas-courts neglect, contravene applicable-law TEX.PENAL § 30.05(e)(3) and contradict *Derichsweiler v. State*, 348 S.W.3d 906 (Tex.Cr.App.2011). Despite objections, Trialcourt prohibits employee-defense law TEX.PENAL § 30.05(e)(3) from CHARGE.
  9. COA/Texas-courts breach Texas-laws, TEX.C.CR.PROC.art-45.032, contradict *Agnew v. State*, 635 S.W.2d 167 (Tex.App.1982), manipulate OPINION, affirm wrongful-convictions, and deprive Petitioner of due process of law. Trialcourt unjustly denies Directed-Verdict, neglects rebut-testimonies, and violates Texas-statutes.
  10. COA/Texas-courts contravene Tex·Const-art.-I § 19, TEX.C.CR.PROC.art-45.019(a)(4), contradicts SCOTUS in *Cole v. Arkansas*, 333 U.S. 196, 201 (1948) & CCA in *Walters v. State*, 247 S.W.3d 204,

- 208 (Tex.Cr.App.2008); *Williams v. State*, 12 Tex.App. 395 (1882). Trialcourt unlawfully entertains defective-COMPLAINTS lacking constitutional requisites; further manipulates CHARGE based on defects, and rules without a true evidence to support the wrongful-convictions as on fabricated-COMPLAINTS.
11. COA/Texas-courts contradict *Kepley v. State*, 391 S.W.2d 423, 425 (Tex.Cr.App.1965), contravene Texas-laws; affirm Trialcourt unlawful-disallowance to reopen for crucial-evidence, defense-testimonies and perjurers-impeachment, hence err on question of law.
  12. COA breaches TEX.R.APP.P.-21.6 on Texas-courts' unlawful filibuster on Motions for NewTrial.
  13. COA/Texas-courts contravene the U.S.Const.amend.-XIII, 18 U.S.C. § 241 & TEX.PENAL §§ 15.01, 15.02, to exclude properly admissible defense-evidence against TEX./FED.R.EVID.Rule-901(b)(1),(4).
  14. COA falsifies against record, violates the U.S.Const.amend.-IV & Tex-Const-art.-I, § 9 and contradicts *Langston v. State*, 855 S.W.2d 718, 719 (Tex.Cr.App.1993). Trialcourt violates 18 U.S.C. §§ 371 & 1519/TEX.PENAL § 37.09, admits legal-insufficient incomplete-record, and prohibits disproof against it.
  15. COA/Texas-courts contravene FED.R.EVID.Rule-404, neglect Motion-in-Limine, and allow irrelevant insignificant-past contextless private-civil-references with substantial-prejudicious-effect to confuse Jury more.
  16. COA/Texas-courts contravene rules regulations to neglect Expert-manifestations/demonstrations on excessive unlawful-force/assault, violations of Tex-Const-art.-I § 29; 42 U.S.C. § 1983; TEX.PENAL §§ 22.01, 22.02; Bexar-County policy/procedures § 9.01

## **IX. REASONS FOR GRANTING THE PETITION**

### **1. TEXAS CONTRAVENES THE DUE PROCESS CLAUSE OF THE U.S. CONSTITUTION ON MULTI-COUNT AND CONTRADICTS SCOTUS. SCOTUS HAS YET TO ANSWER ALL STATES CONTRADICTING DUE PROCESS AGAINST FOURTEENTH AMENDMENT WHETHER COA/TEXAS-COURTS :-**

#### **a. Prohibit all critical defense-witnesses waiting to testify,**

U.S.Const.amend.-VI thru XIV guarantees the accused right to have compulsory process for obtaining witnesses in his favor. *Washington v. Texas*, 388 U.S. 14, 19 (1967): "This right is a fundamental element of due process of law".

Despite presence of all key-defense-witness-coworkers from Petitioner-work-floor, Trialjudge unlawfully prohibited all defense-testimonies (RRs 4-9), which were admissible, material & relevant and bore directly on the main issues. No extreme-circumstances justify exclusion of these exculpatory defense-testimonies.

COA unlawful-affirmations violate U.S.CONST.AMEND.-VI on Trialcourt unconstitutional-prohibitions of all critical defense-witnesses waiting ready-to-testify; constitute reversible-contravention.

#### **b. Prohibit recross to impeach the State-Perjurers present-outside subject-to-recall,**

U.S.CONST.AMEND.-VI thru XIV, Tex-Const-art.-I, § 10 & TEX.C.CR.PROC.art-1.05, 1.25 guarantee the

fundamental right to be confronted with the witnesses against him. *Pointer v. Texas*, 380 U.S. 400, 404, 406-7 (1965) unanimously emphasized defendant's right to confront witnesses against him, as a "fundamental right". *In re Oliver*, 333 U.S. 257, 273 (1948) ("a right to examine the witnesses against him").

Despite request for recross to impeach state-perjurers<sup>4</sup>, Trialjudge violated Petitioner-right to confront with the perjurers against him (RR8 4-9). No extreme-circumstances justify exclusion of utmost-important impeachment-recross of perjurers.

Contra-OPINION P.15 "cumulative-evidence" (App'x.B.14), Recross would have been initial-attempt to impeach perjurers immediately after state-rest. Gonzales, Obey & other-perjurers readily waited outside courtroom (RR8 4); regathered by FrostBank Stephen-Joseph-"Romero".

COA/Texas-courts contravene U.S.CONST.AMEND.-VI on Trialcourt unconstitutional-denial of recross to impeach all perjurers present-outside courtroom subject-to-recall. Trialcourt-prohibition from confronting perjurers constitutes reversible-transgression.

**c. Neglect perplexed Jury's actual law-questions in-deliberations?**

U.S.Const.amend.-VI thru XIV guarantees the right of impartial jury to be informed of the nature and cause of the accusation. *Bollenbach v. United*

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<sup>4</sup> FrostBank's Gonzales, Landin, Obey, Ortega, Torres perpetrated numerous perjuries.

*States*, 326 U.S. 607, 612 (1946)(judge is responsible for "questions of law." *Quercia v. United States*, 289 U.S. 466, 469. "The influence of the trial-judge on the jury is necessarily and properly of great weight," *Starr v. United States*, 153 U.S. 614, 626, "jurors are ever watchful of ...misleading, ...prior-unexceptionable and unilluminating abstract-charge"). Trialcourt failed its essential binding-duty to clarify Jury with *concrete-accuracy* when Jury raised an explicit question of law arising from facts over which Jury-confusion persisted.

When the jury raises an explicit question about a point of law arising from facts over which there is doubt or confusion, the court should attempt to clarify the issues in the minds of the jury members. The judge should respond to the jury's questions even though the jury was initially given proper instructions. Where the jury is obviously confused about the law, answers to jury questions are essential. Trialcourt refused to answer a jury's question as to whether the defendant could be found guilty as the trial court's initial erroneous instruction contributed to juror confusion.

Despite explicit-objections on perplexed-Jury's law-question (CR<sub>2</sub> 79) on "resist-search-*transportation*" CHARGE regarding *transportation* whether law includes Petitioner's act walking under his own power to police-vehicle, Trialcourt violated its authority with its misleading-nonresponse (CR<sub>2</sub> 80) without clarifying actual search-transportation-law (RR<sub>8</sub> 60-61).

ContraOPINION P.15 (App'x.B.15) neglecting REPORTER-RECORD, when Trialjudge vague-nonresponse on law was so misleading, Petitioner himself objected twice (RRs 61), however Trialjudge negligently overruled without hearing. Petitioner thereupon re-objected but Trialjudge interrupted and spoke to ex-attorneys-of-misrepresentations instead (RRs 16-24). The fact that the jury expressed confusion on points of law and Trialcourt had a duty to, but did not, clarify law-questions in jurors' minds; prejudiced, deprived Petitioner of a fair trial and constituted reversible-transgression.

Despite jury-questions of law, Texas-courts refuse to answer even Trialcourt initial unlawful-CHARGE contributes to jury-confusion when Petitioner has right of correcting errors in explanatory.

COA contradictory-affirmation of Trialcourt nonresponse to Jury written-question on Jury-confusion for clarification on law relating to CHARGE is reversible-contravention.



**2. TEXAS PROHIBITS ALL THE CONSTITUTIONAL RIGHTS OF INNOCENT CITIZENS, AND CONTRADICTS SCOTUS & FEDERAL LAWS AGAINST SIXTH AND NINTH AMENDMENTS. WHETHER COA/TEXAS-COURTS CONTRAVENE THE U.S. CONSTITUTION AND FEDERAL LAWS TO :-**

**a. Foster malicious-prosecution, but prohibit Right of innocent citizens' own-summation, and unreasonably off the record to deprive them,**

COA contradicts *Herring v. New York*, 422 U.S. 853 (1975): The defendant has a constitutional-right under U.S.CONST.AMEND.-VI to make own-summation. *Id.* 857. Trialcourt cannot deny the defendant this right no matter how strong the prosecution's case maybe. *Id.* 858. This is a substantial legal-right, of which the defendant cannot be deprived by an exercise of judicial discretion.

Despite own-summation request (RR<sub>8</sub> 6-10,28) after attorney-termination, Trialjudge unconstitutionally prohibited Petitioner (RR<sub>8</sub> 28-29).

*THE COURT: Okay. And just to reiterate, the defense -- excuse me -- the defendant will not be allowed to make closing-argument ...at the very end.*

Despite re-objections, Trialjudge unconstitutionally ordered court-reporter, "*Let's go off-the-record, Edna*" (RR<sub>8</sub> 6; OPINION P.18 App'x.B.18) unreasonably before vigorously prohibiting from speaking to reprehensibly suppress

and deprive Petitioner of his critical-objections/hearing-record from preserving Trialcourt-violations.

Texas-courts unlawfully admonish *off-record* and in open-court (RR<sub>8</sub> 29).

*THE COURT: Okay. And so that request for Mr. Yadav to give the closing-argument is denied. And I'll admonish you, sir, you're not to make any statements during the proceedings. ...remain quiet.*

ContraOPINION P.17 (App'x.B.16) so-called "hybrid-representation" suppressing REPORTER-RECORD, Petitioner strictly asked ex-attorneys not to make *their* summations at all (RR<sub>8</sub> 28) even after disallowance of own-summation as conveyed to Trialjudge challenging unconstitutional-denial (RR<sub>8</sub> 28). Even after attorney-termination, asking Trialjudge to admonish him proves clear conflict/misrepresentations.

Conversely, Trialcourt let prosecutors make abusive, aggressive, derogatory, vehement malicious summations squalling, putting his finger on Petitioner-face (RR<sub>8</sub> 57) that Petitioner had to object (RR<sub>8</sub> 57). *Rather than admonishing prosecutor, Trialcourt wrongly admonished Petitioner* (RR<sub>8</sub> 57). Trialcourt failed to intervene ex-mero-motu to correct transgression of Prosecutors' grossly improper summations. Despite objections, Trialcourt wrongly permitted prosecutors' baseless-inferences (RR<sub>8</sub> 57,59)

and personal-beliefs as to the guilt of Petitioner (RRs 58-59). Due to Trialcourt contravening obstructive-questions & discourteous-remarks, Jury plainly perceived an inferior defense-cause.

COA/Texas-courts contravene the U.S.Const.amend.-VI, XIV, contradict SCOTUS and permit a procedure that distorts the truth without identifiable countervailing reason, therefore, commit an error of law such resulting-judgments must be reversed. Misconduct of Trialcourt on unconstitutional contravention warrants reversal.

**b. Deny innocent citizen's Right-to-Represent themselves,**

*Faretta v. California*, 422 U.S. 806 (1975) ruled, "defendant in a state criminal trial has an independent constitutional-right of self-representation...to defend himself without counsel". U.S.Const.amend.-VI thru XIV and Tex. Const.art.-I § 10 guarantee accused right of being heard by himself.

Contra OPINION P.16 (App'x.B.16), see *McCoy v. Louisiana*, 138 S.Ct. 1500, 1508 (2018)("ineffective assistance of counsel") *Id.* 1508("To gain assistance, a defendant need not surrender control entirely to counsel. For the Sixth Amendment, in "grant[ing] to the accused personally the right to make his defense," "speaks of the 'assistance' of counsel, and an assistant, however expert, is still an assistant." *Faretta*, 422 U.S., 819-820"). *E.g.*, *Harrison v. State*, 595 S.W.3d 879, 881 (Tex.App. 2020)("prejudice" *Miller v. State*, 548 S.W.3d 497 (Tex.Cr.App.2018)"). The

accused, not a lawyer, is master of his own defense. Also see, *Turner v. State*, 570 S.W.3d 250, 276 (Tex.Cr.App.2018)(“defendant cannot simply remain silent”); *Cole v. State*, 590 S.W.3d 1, 9 (Tex.App. 2019)(“trial-court abused its discretion by denying” Petitioner’s “election to represent himself.”).

Despite Petitioner-motion to represent himself (RR8 7-10) before jury-instructions, Trialjudge unconstitutionally denied him (RR8 9) even though ex-attorney informed Trialcourt repeatedly that Petitioner terminated them and would represent himself (RR8 5-7,64).

MS. CUTTER: ...let the Court know that at this point in time *he wishes to represent himself*.

THE COURT: And, Mr. Yadav, is that correct, sir?

THE DEFENDANT: *Yes, Your Honor*.

Although Trialcourt suppressed “*you do not have the right*” (RR3 82) and “*remain-quiet*” (RR8 29), Petitioner himself repeatedly objected on Trialcourt-transgressions (RR3 81;RR4 86;RR8 8,57,61,67).

COA/Texas-courts refuse the U.S. CONSTITUTION and contradict SCOTUS & other COA-opinions, while Trialcourt forces Petitioner against his will to accept the misrepresentation of ex-attorney who he had explicitly terminated for the very reason, and deny him to conduct his own defense.

**c. Deny innocent citizens' Right-to-Testify under-oath,**

*Rock v. Arkansas*, 483 U.S. 44, 49-53 (1987): The right to testify on one's own behalf in defense to a criminal-charge is a fundamental constitutional-right. *Id.* at 53 n.10. U.S.Const.amend.-V, VI, XIV protect defendant's right to testify on his own behalf. 18 U.S.C. § 3481.

Despite Petitioner endeavor to speak/approach and re-objections on flawed-CHARGE fraudulently-misstating his wish-not-to-testify, Trialjudge promptly ordered reporter, "*Let's go off-the-record, Edna*" (RR8 6) before denying to speak/approach, unlawfully denied him to testify (RR8 6-8,15). Trialjudge neglected his repeated-objections when unlawful-CHARGE recorded wish-not-to-testify (RR8 25) & excluded Texas-employee-defense (RR8 26), and interrupted/ordered him to sit-down (RR8 26).

COA neglects explicit-record (RR8 7-10) where Petitioner raised concerns on unadmitted-evidence asking Trialjudge that he himself would authenticate "to the Jury or to this Court, so I would like to present all those cases -- all those evidence myself." (RR8 8). As far as someone "*myself*" could authenticate the evidence, is by "*testifying*" only. Trialjudge interrupted/ordered him each time to sit-down (RR8 9-10).

COA/Texas-courts contravene the U.S. CONSTITUTION and 18 U.S.C. § 3481 and deprive Petitioner of his constitutional-rights to testify.

Texas-courts unlawfully deny request to speak the truth, and off's record to suppress Petitioner-objections to deprive him of an opportunity to defend himself and later in the appeals.

**d. Exempt Corrupt-enterprise-Perjurers to abet white-collar-crimes depriving innocent citizens of their civil rights?**

*Napue v. Illinois*, 360 U.S. 264 (1959) unanimously concluded: Prosecutors' failure on false-testimony deprived defendant of his constitutional-rights. *Giglio v. United States*, 405 U.S. 150 (1972) unanimously concluded: prosecutors' duty to disclose. Per TEX.PENAL §§ 37.02, 37.03, 37.04: "false-statement is material".

Despite explicit-perjury-charges against under-oath-perjurers FrostBank-Vice-Presidents, Trialjudge unlawfully denied (RR<sub>8</sub> 9-10;RR<sub>6</sub> 86). Despite Petitioner's re-echo "*FrostBank-perjurers so-called-witnesses are active-participant who battered [Petitioner], cannot be credible*" (RR<sub>8</sub> 8-10), Trialcourt further violated U.S.Const.amend.-XIII, § 1, 18 U.S.C. § 241 and TEX.PENAL §§ 15.01, 15.02 (See App'x.D.47: Surveillance-Video-Summary against Perjuries).

Despite pretrial Motion-to-Reveal rehearsal/inducement to FrostBank-perjurers/attorney-Romero (CR<sub>1&2</sub> 35-38) to perpetrate perjuries, State failed to reveal agreements under due-process U.S.Const.amend.-XIV; Tex-Const-art.-I, §§ 13, 19. Testimonies reveal that Ortega & FrostBank

actors' salaries/promotions (RR<sub>6</sub> 133) affected their credibility.

Despite objections/Bill-of-Exception, Trialcourt neglected Romero's continuous-collusion (RR<sub>2</sub> 4-5;RR<sub>4</sub> 15,28,81-83,85;RR<sub>5</sub> 5-7,59,67,118-121,123-124,161;RR<sub>8</sub> 4). Despite trial-Motion-to-Reveal "Perhaps the prosecutor can take the stand and counsel can question him on that[collusion/perjuries].", Trialcourt denial "*That's not going to happen*" (RR<sub>5</sub> 119) violates U.S.CONST.AMEND.-VI, XIV, Tex·Const·art.-I, § 10, and TEX.C.CR.PROC.art-1.05, 1.25, 2.01.<sup>5</sup>

Despite explicit pretrial/trial-motions, COA violates the U.S. CONSTITUTION, Federal/State laws: 18 U.S.C. §§ 1005, 1621, 1622, 1623, TEX.PENAL §§ 37.02, 37.03, 37.04, neglects CLERK/REPORTER-RECORDS/EVIDENCE-VIDEOS against prosecutors-collusion & FrostBank-perjuries to deprive Petitioner of his constitutional-rights. Trialcourt denial abets FrostBank collusive State's deceitful-prosecution white-collar-crimes/malfeasance.

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<sup>5</sup> [P]rimary duty of all prosecuting attorneys not to convict, but to see that justice is done....not suppress facts or witnesses...

**3. TEXAS MISINTERPRETS AND CONTRAVENES THE TEXAS LAWS AND CONTRADICTS SCOTUS & CCA. SCOTUS HAS YET TO ANSWER WHETHER AN ACTIVE-EMPLOYEE CAN BE INVOLUNTARILY SERVITUDE AND FALSE-IMPRISONED AT HIS EMPLOYMENT FOR A FAKE-TRESPASS WITHOUT CAUSE OR WARRANT AGAINST THE THIRTEENTH AMENDMENT, § 1, AND WHETHER COA/TEXAS-COURTS WITH SCIENTER :-**

**a. Oppress applicable Texas-laws from Jury despite repeated lucid-objections during CHARGE formulation (What is employees' defense from Trespass-charge at their own work?),**

Petitioner, *fulltime-employee* working permanently over a year at FrostBank, 3838-Rogers-Road with effective-consent of work-area & employee-parking as of Nov 19, 2018 (RR<sub>4</sub> 50;RR<sub>5</sub> 145), received an email *meeting-invite* (RR<sub>10</sub>-State-Ex-3 blurs *11:04am*) at 11:04am just eight minutes before false-imprisonment, committed no crimes, and did not trespass his own work-premises defended under TEX.PENAL § 30.05(e)(3).

Petitioner strongly asked CHARGE to include Texas-defense (RR<sub>8</sub> 26-27):

MR.YBARRA: Okay. Tex.Penal Code, Section 30.5. It's (e)(3)...It is a defense to prosecution under this section that the actor at the time of the offense was: (3), a person who was (A), employed by or acting as agent for entity that had, or that the person reasonably believed had



– reasonably believed had, effective consent or authorization provided by law to enter the property; and (B), performing a duty within the scope of that employment or agency.

COURT: State?

MR.STEVENSON: Judge, we object and ask that you leave the charge as is.

COURT: And that will be granted.

Despite strong-objections (RR<sub>8</sub> 26) to CHARGE (CR<sub>2</sub> 81-87), Trialcourt violated (RR<sub>8</sub> 15,27) TEX.PENAL § 30.05(e)(3) to suppress applicable Texas-employee-defense (RR<sub>8</sub> 25-26). Despite revalidation (RR<sub>9</sub> 26-27) at sentence-hearing, Trialjudge re-violated TEX.PENAL § 30.05(e)(3).

ContraOPINION P.10 (App'x.B.10) lacking facts, two HR-Vice-Presidents Gonzales (RR<sub>4</sub> 77) & Landin (RR<sub>5</sub> 49) testified that Petitioner was employed daylong Nov 19, 2018, not terminated "*until that night*" (RR<sub>5</sub> 49) and "*we still welcomed him to meet with us*" (RR<sub>4</sub> 50). Moreover, COA neglects RR<sub>10</sub>-State-Ex-3 timestamp *11:04am* invite-to-Petitioner five-minutes-ago proving **active-employment-consent**. COA-made-up-termination lacks evidence/testimony. Instead, all state-testimonies/record (RR<sub>4</sub> 39,50,77;RR<sub>5</sub> 49,52,79,163;RR<sub>6</sub> 93;RR<sub>8</sub> 51;CR<sub>1</sub> 102-104,119-123,201-207,212-213) prove Petitioner not-terminated daylong even after false-imprisonment for fake-trespass. COA suppresses pin-cited facts.

Finally, testimonies/videos-timestamps (RR<sub>10</sub>-State-Ex-1) prove that within *less than ten minutes*

*since FrostBank initial-contact 11:09am* at his desk until his entry to leave into his car parked thousand-feet away, he was yanked from his car and false-imprisoned at *11:19am*.

COA contradicts *Derichsweiler v. State*, 348 S.W.3d 906, 917-18 (Tex.Cr.App.2011)(preventing *Derichsweiler* from leaving parking-spot where he parked "is not a criminal-trespass simply to 'mill around'" *Bobo*). Petitioner was not trespassing, instead he was leaving on his own (CR<sub>1</sub> 124,233) when FrostBank Ortega broke his car-door, forcibly yanked him from his car, battered and false-imprisoned him (RR<sub>10</sub>-Defense-Exhibits).

Absent testimony/evidence, Petitioner-actions fall outside the heartland of acts that the criminal-trespass statute seeks to deter and punish. *State v. Griffey*, 241 S.W.3d 700, 705 (Tex.App.2007)(An act "*which does not constitute criminal behavior*").

Despite proper-applicability of **TEX.PENAL § 30.05(e)(3)**, Trialjudge neither explained Texas-law to Jury, nor applied at sentencing. OPINION contravenes Texas-laws. COA contradicts Fifth-COA: *Dillard v. State*, 05-13-00494-CR, \*5 (Tex.App.5d,2014)(judge "ultimately responsible for the accuracy of the jury-charge" *Vega v. State*, 394 S.W.3d 514, 518-19 (Tex.Cr.App.2013)(quoting *Delgado v. State*, 235 S.W.3d 244, 249 (Tex.Cr.App.2007))). TEX.C.CR.PROC.art-36.14 requires Trialjudge "distinctly setting forth *the law applicable to the case.*")

OPINION P.11 (App'x.B.11) self-contradicts "out-of-building' 'in-parking' 'in-his-car' 'leaving' after 'declining-*consensual-invite*'". However, OPINION fails on how could (1) Petitioner, an *employee*, *trespass* (2) when *not-even-inside* guarded-building, (3) or leave his work without *first-being-into-parking/entering-into-his-car*, (4) despite evidence Ortega ripping his car-door apart to prevent him from leaving. OPINION contradicts Fourteenth-COA/CCA "trespass-acquittal" *Langston v. State*, 855 S.W.2d 718, 719 (Tex.Cr.App.1993).

COA/Texas-courts contravene employee-defense Texas-law; suppress it from CHARGE and at sentencing.

**b. Breach Texas-laws to unlawfully deny innocent citizen's rightful Directed-Verdict (Does "falling Petitioner's weak body to the ground due to off-duty-police's excessive use-of-force-assault-injuries" call Resisting?),**

Testimonies and the record discloses (a) complete absence of evidence of vital fact; (b) the testimonies evidence offered to prove a vital fact is no more than a scintilla; and (c) the evidence establishes conclusively the opposite of the vital fact.

Despite rightful Motion-for-Directed-Verdict (RR7 85-90) based on employee-consent-defense and *Agnew v. State*, 635 S.W.2d 167 (Tex.App.1982), Trialcourt unjustly refused and violated

TEX.C.CR.PROC.art-45.032 even after State failed to prove its prima-facie case.<sup>6</sup>

Testimonies prove “no-evidence of trespass” as Petitioner was *inside his car* when Gonzales, Landin, Obey, Ortega, Torres surrounded his car, broke his car-door, yanked him. Gonzales testified the consent-element: employee-badge/parking-token (CR<sub>1</sub> 103-104) against phony-trespass (RR<sub>4</sub> 50):-

Correct. But he also had, you know, *a badge and a parking token* to be able to get into the building. And so at this point if -- we walked over there to see, you know, is he going to come to talk to us or is he voluntarily leaving. If *he's voluntarily leaving*, we wanted to collect those items to ensure that there was no additional conflicts moving forward, but *we still welcomed him to meet with us*.

Testimonies prove “no-resistance” against officer: Off-duty-policeman Ortega himself conceded FrostBank *false-report* (RR<sub>7</sub> 36,68,79;CR<sub>1</sub> 105-118); Per Landin (RR<sub>5</sub> 41): Petitioner was false-imprisoned due to “*uncooperativeness to attend HR-meeting*”; Per Torres: “*He kept trying to talk with other people that were around. He was saying for us to film this. He wanted us to record this, document it because he wanted that as evidence.*” (RR<sub>6</sub> 64-65).

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<sup>6</sup> TEX.C.CR.PROC.art-45.032 permits a Directed Verdict upon the trial of a case in a justice if the state fails to prove a prima facie case of the offense alleged in a complaint.

(RR7 79):-

Q. Okay. So if the district attorney's office charged him with this resisting arrest and said that Mr. Yadav, by using force against you, to-wit, pushing you with his hand, that did not happen, correct? He didn't push you with his hand?

A. (*Lieutenant-Ortega*): *No, ma'am.*

Motion-summary: "State charged conjunctively resist-arrest-search-transportation, but failed to put on scintilla of evidence/testimony/proof of resisting-search. Second, manner-and-means alleged 'pushing...*AND* flinging...', but off-duty-policeman Ortega testified that neither occurred, therefore, no evidence supports it. Third, any proof (there is none) of alleged-force-used against officer is not the type that meets any criminal-offense or violates TEX.PENAL § 38.03(a) because no testimony stated any alleged-force used against arresting-officer, and the arresting-officer Ortega himself testified that no force used against Ortega, therefore, basic-element of TEX.PENAL § 38.03 "using-force-against" is not violated. If the defendant's conduct presents no danger, there's no force used against the police and TEX.PENAL § 38.03 is not violated.

Against phony-trespass, Testimonies prove that FrostBank gave a directive that Petitioner was not going to leave the premises without company-badge and "**was-still-welcomed**" testimony negates the - "without-effective-consent" element. Essentially

FrostBank consented to him being on the property and that is a necessary-element, and without it, it cannot support phony-trespass. Moreover TEX.PENAL § 30.05(e)(3) defends employee from trespass.

COA/Texas-courts breach Texas-statutes, TEX.C.CR.PROC.art-45.032, contradict *Agnew*, and neglect rebut-testimonies. Contrary to Trialcourt unlawful-denial, Petitioner is entitled to Directed-Verdicts of "not guilty".

**c. Promote malicious fabricated/defective-COMPLAINTS despite innocent Citizen not even committed a civil-offence,**

*Bollenbach v. United States*, 326 U.S. 607, 614 (1946)("A charge should not be misleading.").

*Cole v. Arkansas*, 333 U.S. 196, 201 (1948)("No principle of procedural due process is more clearly established than that notice of the specific charge...").

Despite explicit-objections to falsity, Trialcourt during *guilt-innocence* prejudiciously false-stipulated that Petitioner committed so-called "*criminal-episode*" within CHARGE dramatizing FrostBank collusive State's shenanigan (RR<sub>8</sub> 14-15,20), and violated TEX.C.CR.PROC.art-36.14: judge shall "not summing up the testimony...to arouse the sympathy...of the jury." *C.f. Walters v. State*, 247 S.W.3d 204, 208 (Tex.Cr.App.2008).

Despite pretrial/trial-objections (RR<sub>2</sub> 5-6,12), Trialcourt unlawfully neglected defects/irregularities in COMPLAINTS, and unlawfully overruled "*in Frost terms*" (RR<sub>2</sub> 14) in violation of the Tex-Const-art.-I § 19.

Even after State's own main-actor-witness chief-arresting-officer Ortega rebutted/conceded falsity (RR<sub>7</sub> 36,68,79) of State's original fabricated/defective-COMPLAINT "arrest-search-**AND**-transportation:...*pushing...AND flinging...*" (CR<sub>1</sub> 10), Trialcourt further manipulated basic-element into CHARGE to "arrest-search-**OR**-transportation:...*pushing...OR flinging...*" (RR<sub>8</sub> 33). TEX.C.CR.PROC.art-45.019(a)(4): State must prove offense-as-stated in COMPLAINT.

Finally, CHARGE contradicts fabricated/defective-COMPLAINT (RR<sub>7</sub> 79;RR<sub>8</sub> 48), which arresting-officer Ortega's testimony admittedly denies both. Trialcourt has four contradicting/controverting defective-versions; moreover, EVIDENCE-VIDEOS (RR<sub>10</sub>) controvert perjurers-testimonies (RR<sub>4</sub>;RR<sub>7</sub>).

Because, Trialcourt further manipulates State's *form-and-substance* both so perplexed-Jury *must* wrongful-convict Petitioner based on unlawful-CHARGE, Trialcourt lost its jurisdiction. *West v. State*, 567 S.W.2d 515, 516 (Tex.Cr.App.1978)("jury charge is fundamentally defective if it authorizes conviction on a theory not supported by the indictment. E.g. *Shaw v. State*, 557 S.W.2d 305 (Tex.Cr.App.1977); *Peoples v. State*, 548 S.W.2d 893 (Tex.Cr.App.1977); *Long v. State*, 548 S.W.2d 897 (Tex.Cr.App.1977)").

COA/Texas-courts contradict *Williams v. State*, 12 Tex.App. 395 (1882) ("has not been tried by due course of the law" (Tex.Const.art.-I § 19 )."). As in

*Williams*, COMPLAINT is *fatally defective and repugnant to the Constitution* and transgresses by adding shenanigan "criminal-episode" to CHARGE against already fabricated/defective-COMPLAINTS.

**d. Unlawfully deny Motion-to-Reopen during *guilt-innocence-phase*,**

*Kepley v. State*, 391 S.W.2d 423, 425 (Tex.Cr.App.1965): 'judge fell into error in refusing to...adduce testimony from the two witnesses who were available to testify'

Despite Motion-to-Reopen per TEX.C.CR.PROC.art-36.02 due to surveillance-videos-destruction above Petitioner-desk/car (CR<sub>1</sub> 208-211) and missing coworkers-testimonies/evidence & lacking recross/perjurers-impeachment, Trialcourt vigorously denied next-morning Motion-to-Reopen before any summations/instruction-conference/rebuttal after zero-court-activity since parties-rest.(RR<sub>8</sub> 4-9). Trialcourt refusal was transgression because newly proffered evidence/testimony was material and would have impeached all six state-perjurers. Further, reopen would not have delayed because witnesses appeared ready to testify before summations commenced.

COA contravenes Texas laws and *contradicts* CCA. See, CCA always affirms State's motion-to-reopen: *Stout v. State*, 500 S.W.2d 153 (Tex.Cr.App.1973) "allow testimony to be introduced at any time before the argument of the cause is concluded.' *Freeman v. State*, 491 S.W.2d 408



(Tex.Cr.App.1973); *Butler v. State*, 486 S.W.2d 331 (Tex.Cr.App.1972).”

COA violates Texas-laws, TEX.C.CR.PROC.art-36.02, and contradicts *Northcutt v. State*, 478 S.W.2d 935 (Tex.Cr.App.1972); *Castillo v. State*, 494 S.W.2d 844 (Tex.Cr.App.1973) on Texas-courts unlawful denial of Motion-to-Reopen for exculpatory evidence/witnesses & impeachments.

**e. Filibuster hearings on New-Trial Motions?**

Despite in-court on-record Motions<sup>for</sup>NewTrial to remedy Trialcourt-transgressions (RR<sub>9</sub> 44), Trialjudge violated TEX.R.APP.P.-21.6 by refusing post-sentence-hearings on July 8, 2019 at 3pm (RR<sub>9</sub> 44).

Petitioner then timely filed Motions<sup>for</sup>NewTrial (CR<sub>1</sub> 178-188;CR<sub>2</sub> 195-205) per TEX.R.APP.P.-21.4. Despite in-person-meetings on Aug 7<sup>th</sup>,12<sup>th</sup>,14<sup>th</sup>, 2019 with court-coordinator/court-reporter/district-attorney to schedule hearings post-sentence-within-ten-days, Trialjudge *off-record* filibustered thru coordinator: “*Judge is unable to grant or deny motions. Judge has refused to schedule any hearings on-record.*”

ContraOPINION P.21 (App’x.B.20), Trialcourt intentional filibuster-indecisiveness expired Motions<sup>for</sup>NewTrial.

COA/Texas-courts neglect Trialjudge explicit-refusal “*on-record*” (RR<sub>9</sub> 44) right-after judgements to unlawfully filibuster hearings on Motions<sup>for</sup>NewTrial.

**4. TEXAS CONTRAVENES THE RULES OF EVIDENCE AGAINST THE U.S. & TEXAS CONSTITUTION AND CONTRADICTS FEDERAL LAWS. SCOTUS HAS YET TO ANSWER WHETHER UNREASONABLE SEARCH AND SEIZURE AT EMPLOYMENT WITHOUT ANY WARRANT OR CAUSE USING OFF-DUTY STATE'S FORCE AGAINST THE FOURTH AMENDMENT APPLIES TO STATES, AND WHETHER COA/TEXAS-COURTS:-**

**a. Exclude critical-evidence after proper-foundation & explicit-authentications,**

Even though all state-actors authenticated Petitioner's bloody-clothes/coat in Jury-absence, Trialcourt kept Jury exited, prejudiciously obstructed, questioned state-actors twice. (RR<sub>4</sub> 56;RR<sub>5</sub> 105-108,151;RR<sub>6</sub> 26,29-30,67,97-101;RR<sub>7</sub> 20-22,31-32;RR<sub>9</sub> 28-29;CR<sub>1</sub> 126-130)

Despite proper-foundation & explicit evidence-authentication, OPINION PP.12,15,16,21 ambiguously repeats "*we cannot say*". Against U.S.Const.amend.-XIII and 18 U.S.C. § 241, TEX.PENAL §§ 20.01, 20.02, FrostBank: Gonzales, Landin, Obey, Ortega & Torres unlawfully violently stopped, enslaved and assaulted Petitioner. On FrostBank-command (RR<sub>6</sub> 40), Ortega broke Petitioner-car-door, battered, broke his dental-crown (RR<sub>10</sub>-Defense-Ex-17-22;CR<sub>1</sub> 126-130), instantaneously handcuffed (RR<sub>7</sub> 33,68), false-imprisoned him in bleeding conditions, and impounded his car (CR<sub>1</sub> 154-155).

Despite repeated express-authentications by distinctive-characteristics after proper-predicates per TEX./FED.R.EVID.Rule-901(b)(1),(4), COA/Texas-courts unlawfully exclude admissible authenticated-evidence/exhibits: Petitioner leaving on his own (CR<sub>1</sub> 79-162,189-238;CR<sub>2</sub> 93-169) that COA neglects. Beside Trialjudge detrimentally prohibits presenting remaining true critical-defense-evidence (RR<sub>8</sub> 6-10).<sup>7</sup>

Despite exclusive-Bill-of-Exception preserving Trialcourt-transgression in Jury-absence (RR<sub>6</sub> 30-31), COA neglects and violates U.S.Const.amend.-XIII, TEX./FED.R.EVID.Rule-901(b)(1),(4) and 18 U.S.C. § 241 to exclude all critical-evidence.

**b. Aid unlawful seizure, admit spoliation legal-insufficient concealed-evidence and prohibit disproof against it,**

Despite emails/letters & subpoenas to FrostBank (RR<sub>2</sub> 10;RR<sub>9</sub> 9;CR<sub>1</sub> 189-200) for *unedited-original* surveillance-videos and despite “over-hundreds-cameras” (RR<sub>4</sub> 33)<sup>8</sup>, FrostBank in-contempt **concealed** true crucial-videos and in violation of 18 U.S.C. § 1519 **destroyed** (CR<sub>1</sub> 208-211) actual-videos above desk/car. FrostBank not even released single

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<sup>7</sup> Appendix-D specifies list-of-evidence proffered to Trialcourt.

<sup>8</sup> Expert confirmed (RR<sub>7</sub> 101,153) **Cameras:** Right-above Petitioner-desk (RR<sub>7</sub> 99-100,153); Right-above Petitioner-car where Ortega broke his car-door (RR<sub>10</sub>;CR<sub>1</sub> 154-155), prevented him from leaving, brutally pulled out of his car, assaulted him, broke teeth, seized wallet/cellphone (CR<sub>1</sub> 156-162), unlawful-impounded his car, and false-imprisoned him (RR<sub>7</sub> 53-55); Main-exit-cameras

crucial-video, instead distributed partial-videos concealing each crucial-points (RR<sub>10</sub>-State-Ex-1), additionally in-contempt of court-orders (CR<sub>1</sub> 63,67;CR<sub>2</sub> 67,71) **disallowed** (RR<sub>5</sub> 59) photographs of surveillance-cameras above desk/car (RR<sub>2</sub> 5-6,12-13).

Despite Petitioner's trial-motion "They're hiding/tampering with the evidence...I would like to bring those evidence in front of Court so Court and Jury see that evidence that we haven't provided yet." (RR<sub>8</sub> 6-8) to present evidence, Trialcourt denied crucial defense-evidence: preservation-letters, electronic-records, emails, subpoenas, spoliation-proof, evidence-destruction, concealment of surveillance-videos above Petitioner-desk/car (RR<sub>5</sub> 67).

Despite objections (RR<sub>4</sub> 32) on James Lindsey's speculations (RR<sub>4</sub> 30), Trialjudge unlawfully admitted an unauthenticated-video-drive (RR<sub>4</sub> 36) even though Lindsey not-a-custodian (RR<sub>4</sub> 31) no-direct-knowledge (RR<sub>4</sub> 31) assumed without watching/verifying video-drive-contents (RR<sub>4</sub> 32), concealed related-cameras (RR<sub>4</sub> 34-36).

Despite FrostBank-letter conceding Spoliation, *"footage from the day of incident has been deleted pursuant to Frost"* (CR<sub>1</sub> 99-101), OPINION p.8 (App'x.B.8) suppresses facts. FrostBank knowingly altered, destroyed, concealed, covered-up, falsified, and filed false-report. *Yates v. United States*, 574 U.S. 528 (2015) quoting *United States v. Hunt*, 526 F.3d 739, 743 (11<sup>th</sup> Cir. 2008) held that 18 U.S.C. § 1519 applies to

obstructive conduct. Like *Hunt FrostBank*: Obey/Ortega file false-report then tell lies (RR<sub>8</sub> 6,9-10).

Despite objections, COA/Texas-courts neglect corporate-malfeasance & violations of 18 U.S.C. §§ 371 & 1519/TEX.PENAL § 37.09 and allow incomplete-videos that prosecutors maliciously admit with scienter after spoliation (RR<sub>10</sub>-State-Ex-1) that FrostBank destroyed at crucial-points (RR<sub>4</sub> 29-36;RR<sub>5</sub> 6;RR<sub>8</sub> 7). Deceitful-concealment wrongful-convict and defame Petitioner against exposing FrostBank-malfeasance/Whistleblower-emails (RR<sub>5</sub> 51;CR<sub>1</sub> 133-147,196-200). Insufficient unauthentic-videos (concealed at crucial-points) merely show thousand-feet walk from elevator to Petitioner's employment-parking while being enslaved to go to HR (RR<sub>7</sub> 36-37,50-51;RR<sub>10</sub>-Defense-Ex-6,12-13,17-22), that confounded Jury.

ContraOPINION P.6 (App'x.B.6) utter-misattribution "*fought*", Ortega himself refuted that Petitioner did not even touch Ortega (RR<sub>7</sub> 36,68,79). OPINION P.6 (App'x.B.6) vitiates "*falling his body to the ground*" due to Ortega's excessive-use-of-force/assault" to equate with so-called "*resist*" despite Ortega testified (RR<sub>7</sub> 17-20) "***AFTER-Petitioner-handcuffed-facedown-bleeding***" (RR<sub>7</sub> 75)<sup>9</sup> due to Ortega's foot/knee on his neck, injuries, broken-teeth, enormous blood-loss causing torturous-pain in neck,

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<sup>9</sup> misused word flailing for hurting/crying-for-help

shoulders, back, legs, wrists, face, and chin to a weak-desk-worker who prolong-sits on his desk.

(RR7 33):

Q. Okay. So your foot would have made contact with what parts of Mr. Yadav's body?

A. Chins. Maybe his left chin.

(RR7 76):

Q. Right. And you take him to the ground. You said, I put my foot out. It probably makes contact with his chin, right? And you take him to the ground. And he has no way to break his fall, right, because his hands are behind his back, or were they in front?

A. No. Behind his back.

OPINION P.8 (App'x.B.8) neglects Ortega's testimony: unlawfully seizing Petitioner-wallet/cellphone "*give me your wallet*" (RR7 14), "*he wanted to take pictures*" (RR6 61;RR7 54) violations of U.S.Const.amend.-IV and rights against Tex·Const·art.-I, § 9 unreasonable-seizures of Petitioner-wallet/cellphone/passport/pen-drive (CR1 156-162) several-days even after his release. COA contradicts *Rodriguez v. State*, 758 S.W.2d 787, 788 (Tex.Cr.App.1988)("failure to object to the unconstitutional jury-charge did not waive error.")

COA falsifies against record, contradicts SCOTUS; *Langston v. State*, 812 S.W.2d 406, 408 (Tex.App. 1991); *Langston v. State*, 855 S.W.2d 718, 719 (Tex.Cr.App.1993) and violates the U.S.Const.amend.-IV, Tex·Const·art.-I, § 9 & TEX.C.CR.PROC.ART-1.06.

Texas-courts admit legal-insufficient incomplete-concealed-videos, and prohibit disproof against it.

**c. Propagandize irrelevant contextless hearsays,**

Despite objections (RR<sub>5</sub> 25-26) and state-actor's rebut-testimony, Trialcourt violated Evidence-Rules, permitted open-testimonies/extensive-presentations contextless-dates-commentary from non-probative irrelevant-HR-civil-file hearsays-within-hearsay, had significant prejudicious-effect to confuse Jury even-more without contextual-contents.

ContraOPINION P.12 (App'x.B.12), Petitioner explicitly identified hearsays-within-hearsay-pretext (RR<sub>5</sub> 25-26). Trialjudge personally read comments (RR<sub>4</sub> 90), "*COURT: It's notated here that Mr. Yadav denied everything in both of these[pretext-hearsays]*" (RR<sub>4</sub> 89-90), but failed to limine-out (RR<sub>4</sub> 9,66-68,88-89;RR<sub>8</sub> 13). OPINION P.12 (App'x.B.12) misdirects "unadmitted", however repeated-references "passages/dates" from pretext to Jury showing-up throughout admitted-REPORTER-RECORD (RR<sub>4</sub>;RR<sub>8</sub>). Trialjudge allowed state-actors to read contextless-dates/references repeatedly from fraudulent contextless-pretext with unfair-prejudicious-effect, inadmissible under TEX./FED.R.EVID.Rule-402, Rule-403, Rule-404, confused, misled, aroused Jury-emotions, weighed against zero-evidence.

COA/Texas-courts contravene Rules-of-Evidence, neglect Motion-in-Limine (CR<sub>1&2</sub> 44-46), and propagandize irrelevant-contextless-presentations.

**d. Neglect Expert's demonstration on unlawful use-of-force violating Texas rules regulations?**

Even after Petitioner departed from his desk (RR<sub>6</sub> 59) to his car parked over thousand-feet-away within under eight-minutes (RR<sub>5</sub> 144-145) since arrival of Obey, Ortega & Torres at his desk (RR<sub>6</sub> 10), FrostBank off-duty-policeman Ortega (RR<sub>6</sub> 133-134) upon FrostBank-supervisor Obey's-command (RR<sub>6</sub> 40,135;RR<sub>7</sub> 40) false-imprisoned Petitioner. As soon as Petitioner entered into his car, Ortega/Obey broke Petitioner-car-door, yanked him and battered. To cover up, Obey/Ortega's aggravating-assault, FrostBank accused of false-resist-arrest/trespass. Ortega under-oath controverted FrostBank false-report testifying that Petitioner did not resist (RR<sub>7</sub> 68).

Contrary to state-perjurers, there was neither trespassing nor notice/warrant/probable-cause-of-arrest/identification-issue/warning-under-arrest (RR<sub>6</sub> 33). Ortega/Obey atoned their unlawful use-of-force/assault/false-imprisonment (RR<sub>6</sub> 24;RR<sub>7</sub> 48,76). Ortega transgressed Tex-Const-art.-I, §§ 9, 29. Ortega's unlawful-excessive use-of-force/assault and false-imprisonment constitutes violation of constitutional-rights, imposing liability 42 U.S.C. § 1983.

Despite Bexar.County-Policy/Procedures § 9.01 objectively-reasonable use-of-force, Ortega/Obey



assaulted with unlawful excessive-use-of-force (RR7 104-106,112-120,123-131) and violated Texas-policies/procedures (RR7 105-106,112-114) as demonstrated by Expert.

COA/Texas-courts neglect (RR7 110) Expert-demonstration on unlawful excessive-use-of-force/assault violating Tex-Const.art.-I § 29; TEX.PENAL §§ 22.01, 22.02; 42 U.S.C. § 1983; Bexar-County policy/procedures § 9.01.

## **X. CONCLUSION**

In the interest of justice to be served for all the innocent citizens of the United States<sup>10</sup>, Petitioner, Vinay Yadav, respectfully, requests the Court grant the petition for writ of certiorari.

Respectfully submitted,

*April 19, 2021*

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<sup>10</sup> Since Petitioner has already served the wrongful sentence.