

No. _____

In The

Supreme Court of The United States

In re

Allen "F" Calton

Petitioner's Affidavit Appendix In Support Of His Petition

To The Honorable Court:

Now Comes Allen "F" Calton, the pro se petitioner in the above cause pursuant to 28 U.S.C. § 1746 and presents his Affidavit Appendix as a self-contained document numbered sequentially. But asks this court that the same be incorporated and considered with the Writ of Habeas Corpus on file herein for all intents, purposes and as support thereof in light of the competent evidence contained herein. I state and depose that I am over (21) years of age, of sound mind and capable of making this affidavit and have personal knowledge that the (239) pages of documents contained as exhibits attached and incorporated hereto are true and correct copies of the originals and I can testify to the same as being the truth of the matter.

(1) Appendix "A" Is a true and correct copy of the judgment of the Texas Court of Criminal Appeals denying Allen "F" Calton relief on his state Application for Writ of Habeas Corpus on 7-12-17 in reference to cause No. WR-65,590-22 off.p.1

Petitioner's Affidavit Appendix Index page i

(2) Appendix "B" Is a true and correct copy of the 213th Judicial Trial Court's order establishing that Allen "F" Calton had been previously cited for abuse of the writ in the past and directing the District Clerk to forward the writ transcript to the Texas Court of Criminal Appeals dated 6-13-17 app. p. 2

(3) Appendix "C" Is a true and correct copy of the judgment of the Texas Court of Criminal Appeals denying Allen "F" Calton relief on his 'motion for Reconsideration' on the Texas Court of Criminal Appeals own motion of their decision denying habeas corpus relief dated 3-12-20 in reference to cause No. WR-65, 590-22 app. p.3

(4) Appendix "D" Is a true and correct copy of the Statutory Law of Texas Code of Criminal Procedure Article 11.07 app. p. 4-7

(5) Appendix "E" Is a true and correct copy of the judgment Sheet of Cause No. 0843168 for Allen "F" Calton conviction of Attempted murder app. p. 8-9

(6) Appendix "F" Is a true and correct copy of the abuse of writ order entered against Allen "F" Calton by the Texas Court of Criminal Appeals on 5-28-08 app. p. 10-11

(7) Appendix "G" Is a true and correct copy of the judgment of the Texas Court of Criminal Appeals dismissing Allen "F" Calton petition for writ of Habeas Corpus Presented original to the court dated 1-29-20 cause No. WR-65, 590-27 app. p.12

(8) Appendix "H" Is a true and correct copy of the judgment of the Texas Court of Criminal Appeals denying Allen "F" Calton leave to file an Original Jurisdiction petition for writ of Habeas Corpus dated 4-29-20 cause No. WR-65, 590-28 app. p. 13

(9) Appendix "I" Is a true and correct copy of the U.S. Court of Appeals Fifth Circuit's judgment dated 11-26-19 denying Allen "F" Calton leave to file a second or successive Petition Cause No. 19-11206 app. p. 14-15.

(10) Appendix "J" Is a true and correct copy of the Application For Writ Of Habeas Corpus Allen "F" Calton filed in the trial court on 5-29-17 denied by the Texas Court of Criminal Appeals on 7-12-17 Cause No. WR-65,590-22 app. p. 16-37

(11) Appendix "K" Is a true and correct copy of the motion For Evidentiary Hearing filed in the trial Court on 5-26-17 implicitly denied by the Texas Court Criminal Appeals on 7-12-17 Cause No. WR-65-590-22 app. p. 38-42

(12) Appendix "L" Is a true and correct copy of the motion For Re-consideration on its own motion for the Texas Court of Criminal Appeals to reconsider its denial of Allen "F" Calton's Application for Writ Of Habeas filed on 2-7-20 Cause No. WR-65,590-22 app. p. 43-64

(13) Appendix "M" Is a true and correct copy of an excerpt of Garland P.D. Record in reference to Allen "F" Calton's arrest on 4-23-02 app. p. 65

(14) Appendix "N" Is a true and correct copy of the Miranda Warning and Police Statement to Fort Worth P.D. signed by Allen "F" Calton on 4-26-02 app. p. 66-67

(15) Appendix "O" Is a true and correct copy of Allen "F" Calton's Affidavit in support of his Petition for Writ Of Habeas Corpus app. p. 68-73

(16) Appendix "P" Is a true and correct copy of an excerpt of trial statement of facts Cause No. 0843168 Volume 8 p. 161-164 app. p. 74.

(17) Appendix "Q" Is a true and correct copy of excerpts of trial statement of facts Cause No. 0843168 Volume 8 p.209- 224 app. p. 75-78

(18) Appendix "R" Is a true and correct copy of excerpts of trial statement of facts Cause No. 0843168 Volume 8 p.177-184 app. p. 79-80

(19) Appendix "S" Is a true and correct copy of an excerpt of trial statement of facts Cause No. 0843168 Volume 6 p.69-72 app. p.81

(20) Appendix "T" Is a true and correct copy of the Tarrant County District Attorney response to Allen "F" Calton T.C.C.P. Art. 64.01 motion for DNA testing app. p. 82-102

(21) Appendix "U" Is a true and correct copy of the letter to the Garland P.D. from Allen "F" Calton making an open records request for information pertaining to the 'Butcher Knife' dated 10-26-16 app. p.103

(22) Appendix "V" Is a true and correct copy of the U.S. postal service P.S. Form 3811 establishing Garland P.D.'s receipt of the 10-25-16 open records request app. p.104

(23) Appendix "W" Is a true and correct copy of the letter to the Garland P.D. from Calton making an open records request for information pertaining to the 'Butcher Knife' dated 10-31-16 app. p. 105

(24) Appendix "X" Is a true and correct copy of the U.S. Postal Service P.S. Form 3811 establishing Garland P.D.'s receipt of the 10-31-16 open records request app. p.106

(25) Appendix "Y" Is a true and correct copy of excerpts of trial statement of facts of Cause No. 0843168 Volume 4 p. 57 - 64 app. p. 107 - 108

(26) Appendix "Z" Is a true and correct copy of the letter from the Fort Worth P.D. dated 10-14-06 denying Carlton's Open record request app. p. 109

(27) Appendix "AA" Is a true and correct copy of a Brady motion filed by Allen "F" Carlton on 6-11-03 in reference to cause No. 0843168 among others granted by the trial Court 1-8-04 app. p. 110-112.

(28) Appendix "BB" Is a true and correct copy of a Brady motion filed by Allen "F" Carlton on 6-11-03 in reference to cause No. 0843168 among others granted by the trial court on 7-2-03 app. p. 113-115

(29) Appendix "CC" Is a true and correct copy of an excerpt of 1-8-04 pretrial statement of facts cause No 0843168 Volume 1 of 1 p. 12 app. p. 116

(30) Appendix "DD" Is a true and correct copy of excerpts of 1-16-04 pretrial statement of facts cause No 0843168 Volume 1 of 1 p. 21-23 app. p. 117-119

(31) Appendix "EE" Is a true and correct copy of excerpts of 4-26-04 pretrial statement of facts Cause No. 0843168 Volume 1 of 1 p. 6-7 app. p. 120-121

(32) Appendix "FF" Is a true and correct copy of excerpts of trial statement of facts of Cause No. 0843168 Volume 9 p. 5-16 app. p. 122-124

(33) Appendix "GG" Is a true and correct copy of excerpts of trial statement of facts of Cause No. 0843168 Volume 5 p. 33-40 app. p. 125-126

(34) Appendix "HH" Is a true and correct copy of the subpoena application and subpoena issued on 5-13-04 and served on 5-14-04 to Bobbie Parks compelling the Garland

Petitioner's Affidavit Appendix Index page V

P.D. record custodian to bring the 'Butcher Knife' to court instanter app. p. 127-129

(35) Appendix "II" Is a true and correct copy of an excerpt of trial statement of facts of Cause No. 0843168 Volume 4 p.49-52 app. p. 130

(36) Appendix "JJ" Is a true and correct copy of Allen "F4" Calton medical records for treatment rendered on 4-8-02 at Harris Methodist Hospital in Fort Worth, Texas app. p. 131-140

(37) Appendix "KK" Is a true and correct of Allen "F4" Calton's medical records for treatment rendered on 4-24-02 by the Garland Fire Department app. p. 141-146

(38) Appendix "LL" Is a true and correct of an excerpt of trial statement of facts of Cause No. 0843168 Volume 4 p. 97-100 app. p. 147

(39) Appendix "MM" Is a true and correct copy of an excerpt of trial statement of facts of Cause No. 0843168 Volume 2 p. 41-44 app. p. 148

(40) Appendix "NN" Is a true and correct copy of excerpts of trial statement of facts of Cause No. 0843168 Volume 3 p. 17-32 app. p. 149-152

(41) Appendix "OO" Is true and correct copy of an excerpt of trial statement of facts of Cause No. 0843168 Volume 3 p. 45-48 app. p. 153

(42) Appendix "PP" Is a true and correct copy of excerpts of Everett Angle's J.P.S. Hospital medical records for treatment rendered on 4-23-02 app. p. 154-155

(43) Appendix "QQ" Is a true and correct copy of an excerpt of trial statement of facts of Cause No. 0843168 Volume 4 p. 137-140 app. p. 156

(44) Appendix "RR" Is a true and correct copy of the search warrant return # 7639 executed at 1744 Wiseman Ave by Fort Worth P.O. on 4-21-99 app. p. 157

(45) Appendix "SS" Is a true and correct copy of the search warrant return # 8694 executed at 1744 Wiseman Ave by Fort Worth P.O. on 11-6-00 app. p. 158

(46) Appendix "TT" Is a true and correct copy of the search warrant return # 8960 executed at 1744 Wiseman Ave by Fort Worth P.O. on 3-6-01 app. p. 159-160

(47) Appendix "UU" Is a true and correct copy of the search warrant return # SW-10014-02 executed at 1744 Wiseman Ave by Fort Worth P.O. on 4-11-02 app. p. 161

(48) Appendix "VV" Is a true and correct copy of the search warrant return # SW-0142-03 executed at 1744 Wiseman Ave by Fort Worth P.O. on 2-21-03 app. p. 162

(49) Appendix "WW" Is a true and correct copy of excerpts of trial statement of facts of cause No. 0843168 Volume 5 p. 73-80 app. p. 163-164

(50) Appendix "XX" Is a true and correct copy of the open records request to the City of Garland made by Court Appointed Investigator Jeff Bunch dated 9-30-03 and the call for service report call ID # 2002 EO44554 in reference to a 911 phone call made by Allen "F" Carlton at 355 South Garland Rd. on 4-23-02 at 10:15 p.m. app. p. 165-167

(51) Appendix "YY" Is a true and correct copy of excerpts of trial statement of facts of cause No. 0843168 Volume 5 p. 93-112 app. p. 168-172

(52) Appendix "ZZ" Is a true and correct copy of excerpts of trial statement of facts of cause No. 0843168
Volume 4 p. 1-24 app. p. 173-178

(53) Appendix "AAA" Is a true and correct copy of the Intake screening Form of The Garland P.D. pertaining to Allen "F" Calton's arrest on 4-23-02 app. p. 179-182

(54) Appendix "BBB" Is a true and correct copy of an except of trial statement of facts of cause No. 0843168
Volume 5 p. 85-88 app. p. 183

(55) Appendix "CCC" Is a true and correct copy of an except of trial statement of facts of cause No. 0843168
V4 p. 69-72 app. p. 184

(56) Appendix "DDD" Is a true and correct copy of excerpts of trial statement of facts of cause No. 0843168
V5 p. 117-124 app. p. 185-186

(57) Appendix "EEE" Is a true and correct copy of an except of trial statement of facts of cause No. 0843168
V6 p. 61-64 app. p. 187

(58) Appendix "FFF" Is a true and correct copy of excerpts of trial statement of facts of cause No. 0843168
V7 p. 21-28 app. p. 188-189

(59) Appendix "GGG" Is a true and correct copy of an except of trial statement of facts of cause No. 0843168
V8 p. 193-196 app. p. 190

(60) Appendix "HHH" Is a true and correct copy of excerpts of trial statement of facts of cause No. 0843168
V8 p. 169-172 app. p. 191

(61) Appendix "III" Is a true and correct copy of excerpts of trial statement of facts of Cause No. 0843168
V.4 p.81-88 app. p.192-193

(62) Appendix "JJJ" Is a true and correct copy of excerpts of trial statement of facts of Cause No. 0843168
V.7 p. 1-8 app. p. 194-195

(63) Appendix "KKK" Is a true and correct copy of excerpts of trial statement of facts of Cause No. 0843168
V8 p. 17-32 app. p. 196-199

(64) Appendix "LLL" Is a true and correct copy of an except of trial statement of facts of Cause No. 0843168
V6 p.53-56 app. p. 200

(65) Appendix "mmm" Is a true and correct copy of Everette Angles medstar Ambulance Service medical records for treatment rendered on 2-16-02 app. p. 201-203

(66) Appendix "NNN" Is a true and correct copy of Everette Angles medstar Ambulance Service medical records for treatment rendered on 4-23-02 app. p. 204-208

(67) Appendix "000" Is a true and correct copy of an except of trial statement of fact of Cause No. 0843168
V.3 p.161-164 app. p.209

(68) Appendix "PPP" Is a true and correct copy of an excepts of trial statement of facts of cause No. 0843168 V6 p.29-36 app. p.210-211

(69) Appendix "QQQ" Is a true and correct copy of an except of trial statement of facts of cause No. 0843168 V9 p.33-36 app. p.212

(70) Appendix "RRR" Is a true and correct copy of excerpt of S-1-02 Bond Hearing Statement of Facts Cause No. 0843168 Volume 1 of p. 80-82 app. p. 213-215

(71) Appendix "SSS" Is a true and correct copy of excerpt of trial statement of facts of cause No. 0843168 V3 p.53-56 app. p. 216

(72) Appendix "TTT" Is a true and correct copy of an excerpt of trial statement of facts of cause No. 0843168 V3 p.61-64 app. p. 217

(73) Appendix "UUU" Is a true and correct copy of an excerpt of 1-16-04 Pretrial Hearing statement of facts of cause No. 0843168 Volume 1 of p.8-9 app. p. 218-219

(74) Appendix "VVV" Is a true and correct copy of Fort Worth P.O. offense Report # 02258236 entry date 4-21-02 pertaining to a search warrant executed at 1744 Wiseners Ave on 4-11-02 app. p. 220-223

(75) Appendix "WWW" Is a true and correct copy of an excerpt of trial statement of facts of cause No. 0843168 V.8 p.45-48 app. p. 224

(76) Appendix "XXX" Is a true and correct copy of the Chain of custody sheet pertaining to the 'Butcher Knife' seized by the Garland P.O. on 4-24-02 app. p. 225

(77) Appendix "YYY" Is a true and correct copy of the judgment entered by the Texas Court of Criminal Appeals on 10-3-18 in reference to An Application for writ of Habeas Corpus in Cause No. WL-65,590-23 the court did not take any action on app. p. 226

Petitioner's Affidavit Appendix Index page X

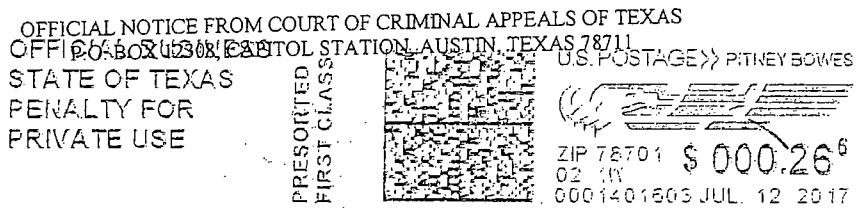
(78) Appendix "ZZZ" Is a true and correct copy of the Tarrant County District Attorney Office Response dated 6-5-17 responding to Allen "F" Calton T.C.C.P. Art. 11.07 Application for a writ of Habeas Corpus in Cause No. WR-65,590-22 app. p. 227-232

(79) Appendix "AAAA" Is a true and correct copy of the Demand Letter dated 5-25-20 from Allen "F" Calton demanding the Texas Court of Criminal Appeals and the Judges thereof to rescind the court and/or their order denying Calton habeas corpus relief in Cause No. WR-65,590-22 app. p. 233-239

Respectfully Submitted,
Certification Allen "F" Calton

I, Allen "F" Calton # 1123880, incarcerated at the Connally Unit, in Karnes County, Tx. hereby, state under the penalty of perjury that the documents attached and incorporated hereto are true and correct copies of the originals and I have personal knowledge of the same. This Court can take judicial notice of said documents contained herein because the same are in the public records and/or are from a source whose accuracy cannot be reasonably questioned. See Langdale v Villamil 813 SW2d 187, 189-190 (Tex. App Houston [14th Dist] 1991) ("Taking judicial notice of judgment of disbarment because the judgment is a matter of public records and such it is capable of accuracy cannot be reasonably questioned")

Executed on July 13, 2020 Allen "F" Calton



7/12/2017
CALTON, ALLEN FITZGERALD Tr. Ct. No. C-213-011065-0843168-M WR-
65,590-22
This is to advise that the Court has denied without written order the application for
writ of habeas corpus.

Deana Williamson, Clerk

ALLEN FITZGERALD CALTON
STILES UNIT - TDC # 1123880
3060 FM 3514
BEAUMONT, TX 77705

148 77705

|||||

Appendix "A" app. p. 1

FILED
THOMAS A WILDER, DIST. CLERK
TARRANT COUNTY, TEXAS

NO. C-213-011065-0843168-M

JUN 14 2017

TIME 5:59
BY JD

DEPUTY

EX PARTE

ALLEN F. CALTON

§ IN THE 213TH JUDICIAL

§ DISTRICT COURT OF

§ TARRANT COUNTY, TEXAS

FINDING

1. The Court finds that the Court of Criminal Appeals has previously declared that the applicant has abused the article 11.07 writ of habeas corpus process.

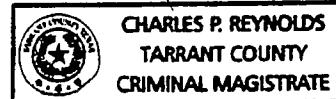
ORDER

1. The Court directs the Clerk of this Court to file this finding and transmit it along with the Writ Transcript to the Clerk of the Court of Criminal Appeals of Texas as required by law.

2. The Court directs the Clerk of this Court to furnish a copy of this order to the applicant, Mr. Allen F. Calton, TDCJ-ID #01123880, Stiles Unit, 3060 FM 3514; Beaumont, Texas 77705; and to the post-conviction unit of the Tarrant County Criminal District Attorney's Office.

SIGNED AND ENTERED this 13th day of June 2017


JUDGE PRESIDING



Appendix "B" app. p. 2

OFFICIAL NOTICE FROM COURT OF CRIMINAL APPEALS OF TEXAS
P.O. BOX 12308, CAPITOL STATION, AUSTIN, TEXAS 78711

OFFICIAL BUSINESS
STATE OF TEXAS
PENALTY FOR
PRIVATE USE

PRESORTED
FIRST CLASS

U.S. POSTAGE ▷ PITNEY BOWES



ZIP 78702 \$ 000.27⁰
02 47 0000372116 MAR 17 2020

3/12/2020

CALTON, ALLEN FITZGERALD Tr. Ct. No. C-213-011065-0843168-M WR-
65,590-22

This is to advise that the applicant's suggestion for reconsideration has been denied without written order.

Deana Williamson, Clerk

ALLEN FITZGERALD CALTON
CONNALLY UNIT - TDC # 1123880
899 FM 632
KENEDY, TX 78119

TEBNAB 78119

Appendix "C" app. p. 3

Texas Code of Criminal Procedure Article 11.07

Habeas Corpus Procedure after conviction without death penalty.

Section 1: this article establishes the procedures for an application for writ of habeas corpus in which the applicant seeks relief from a felony judgment imposing a penalty other than death.

Section 2: After indictment found in any felony case, other than a case in which the death penalty is imposed and before conviction, the writ must be made returnable in the county where the offense has been committed.

Section 3:

(a) After final conviction in any felony case, the writ must be made returnable to the Texas Court of Criminal Appeals at Austin, Texas.

(b) An application for writ of habeas corpus filed after final conviction in a felony case, other than a case in which the death penalty is imposed, must be filed with the clerk of the court in which the conviction being challenged was obtained, and the clerk shall assign the application to that court. When the application is received by that court, a writ of habeas corpus, returnable to the Texas Court of Criminal Appeals, shall issue by operation of law. The clerk of that court shall make appropriate notation thereof, assign to the case a file number (ancillary to that of the conviction being challenged), and forward a copy of the application by certified mail, or by personal service to the attorney representing the state in that court, who shall answer the application not later than the 15th day after the date the copy of the application is received. Matters alleged in the application not admitted by the state are deemed denied.

(c) Within 20 days of the expiration of the time in which the state is allowed to answer, it shall be the duty of the convicting court to decide whether there are controverted, previously unresolved facts material to the legality of the applicant's confinement. Confinement

Texas Code of Criminal Procedure Article 11.07

means confinement for any offense or any collateral consequence resulting from the conviction that is the basis of the instant habeas corpus. If the convicting court decides that there are no such issues, the clerk shall immediately transmit to the Texas Court of Criminal Appeals a copy of the application, any answers filed, and a certificate reciting the date upon which that finding was made. Failure of the court to act within the allowed 20 days shall constitute such a finding.

(d) If the convicting court decides that there are controverted, previously unresolved facts which are material to the legality of the applicant's confinement, it shall enter an order within 20 days of the expiration of the time allowed for the state to reply, designating the issues of fact to be resolved. To resolve those issues the court may order affidavits, depositions, interrogatories, additional forensic testing, and hearings, as well as using personal recollection. The state shall pay the cost of additional forensic testing ordered under this subsection, except that the applicant shall pay the cost of the testing if the applicant retains counsel for purposes of filing an application under this article. The convicting court may appoint an attorney or a magistrate to hold a hearing and make findings of fact. An attorney so appointed shall be compensated as provided in Article 26.05 of this Code. It shall be the duty of the reporter who is designated to transcribe a hearing held pursuant to this article to prepare a transcript within 15 days of its conclusion. On completion of the transcript, the reporter shall immediately transmit the transcript to the clerk of the convicting court. After the convicting court makes findings of fact or approves the findings of the person designated to make them, the clerk of the convicting court shall immediately transmit to the Texas Court of Criminal Appeals, under one cover, the application, any answers filed, any motions filed, transcripts of all depositions and hearings, any affidavits, and any other matters such as official records used by the court in

Texas Code of Criminal Procedure Article 11.07

resolving issues of fact.

(e) For the purposes of Subsection (d), "additional forensic testing" does not include forensic DNA testing as provided for in Chapter 64.

Section 4.

(a) If a subsequent application for writ of habeas corpus is filed after final disposition of an initial application challenging the same conviction, a court may not consider the merits of or grant relief based on the subsequent application unless the application contains sufficient specific facts establishing that:

- (1) the current claims and issues have not been and could not have been presented previously in an original application filed under this article because the factual or legal basis for the claim was unavailable on the date the applicant filed the previous application; or
- (2) by a preponderance of the evidence, but for a violation of the United States Constitution no rational juror could have found the applicant guilty beyond a reasonable doubt.

(b) For purposes of Subsection (a)(1), a legal basis of a claim is unavailable on or before a date described by Subsection (a)(1) if the legal basis was not recognized by and could not be reasonably formulated from a final decision of the United States Supreme Court, a court of appeals of the United States, or a court of appellate jurisdiction of this state on or before that date.

(c) For purposes of Subsection (a)(1), a factual basis of a claim is unavailable on or before a date described by Subsection (a)(1) if the factual basis was not ascertainable through the exercise of reasonable diligence on or before that date.

Section 5.

The Texas Court of Criminal Appeals may deny relief
Appendix "D" app. p. 6

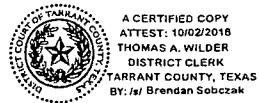
Texas Code of Criminal Procedure Article 11.09

upon the findings and conclusions of the hearing judge without docketing the cause, or may direct that the cause be docketed and heard as though originally presented to said court or as an appeal. Upon reviewing the record the court shall enter its judgment remanding the applicant to custody or ordering his release, as the law and facts may justify. The mandate of the court shall issue to the court issuing the writ, as in other criminal cases. After conviction the procedure outlined in this Act shall be exclusive and any other proceeding shall be void and of no force and effect in discharging the prisoner.

Section 6.

Upon any hearing by a district judge by virtue of this act, the attorney for applicant, and the state, shall be given at least seven full days' notice before such hearing is held.

Section 7. When the attorney for the state files an answer, motion or other pleading relating to an application for writ of habeas corpus or the court issues an order relating to an application for a writ of habeas corpus, the clerk of the court shall mail or deliver to applicant a copy of the answer, motion, pleading, or order.



CASE NO. 0843168D

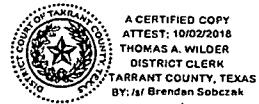
THE STATE OF TEXAS § IN THE 213TH DISTRICT
VS. § COURT OF
ALLEN FITZGERALD CALTON AKA: § TARRANT COUNTY, TEXAS
ALLEN FRITZGERALD CALTON §

**JUDGMENT ON JURY VERDICT OF GUILTY
PUNISHMENT FIXED BY COURT OR JURY - NO PROBATION GRANTED**

Judge Presiding	: HON. ROBERT K. GILL	Date of Judgment	: MAY 19, 2004
Attorney for State District Attorney	: TIM CURRY	Assistant District Attorney	: DAVID HAGEMAN CHARLES E. BRANDENBERG
Attorney for Defendant	: PRO SE	Charging Instrument: INDICTMENT	
Offense Date	Convicted Offense		
APRIL 23, 2002	ATTEMPTED MURDER		
Degree	Count	Plea	
2ND	ONE	NOT GUILTY	
Findings on Deadly Weapon	THE JURY AFFIRMATIVELY FINDS THAT THE DEFENDANT USED OR EXHIBITED A DEADLY WEAPON, TO-WIT: A FIREARM DURING THE COMMISSION OF THE OFFENSE OR DURING THE IMMEDIATE FLIGHT THEREFROM.		
Plea to Enhancement Paragraph(s)	NONE		
Plea to Habitual Paragraph(s)	DEFENDANT STOOD MUTE ON BOTH HABITUAL OFFENDER NOTICES; PLEA OF NOT TRUE ENTERED BY COURT		
Findings on Enhancement/ Habitual Paragraph(s)	BOTH ALLEGATIONS IN EITHER HABITUAL OFFENDER NOTICES FOUND TRUE BY JURY: TWO PRIOR FELONY CONVICTIONS		
Jury Verdict	GUILTY		
Punishment Assessed By	JURY		
Date Sentence Imposed	: MAY 20, 2004	Date to Commence	: MAY 20, 2004
Punishment Place of Confinement	COUNT ONE - LIFE INSTITUTIONAL DIVISION OF THE TEXAS DEPARTMENT OF CRIMINAL JUSTICE		
Time Credited	: 757 DAYS	Court Costs	: \$273.00
Reparation	: NONE	Restitution	: NONE

On this day, set forth above, this cause came for trial, and the State appeared by the above-named attorney, and the Defendant appeared in person in open court, the above-named counsel for Defendant also being present, or, where a Defendant is not represented by counsel, that the Defendant knowingly, intelligently, and voluntarily waived the right to representation by counsel; and the said Defendant having been duly arraigned and it appearing to the Court that Defendant was mentally competent, and having pleaded as shown above to the indictment herein, both parties announced ready for trial and thereupon a jury, to-wit, the above named foreman and eleven others, was duly selected, impaneled and sworn, who having heard the indictment read and the Defendant's plea thereto, and having heard the evidence submitted, and having been duly charged by the Court, retired in charge of the proper officer to consider the verdict, and afterward were brought into Court by the proper officer, the Defendant and Defendant's counsel being present, and returned into open court the verdict set forth above, which was received by the Court, and is





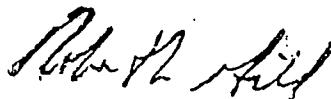
here now entered upon the minutes of the Court as shown above.

Thereupon, the Defendant elected to have punishment assessed by the above shown assessor of punishment, and when shown above that the indictment contains enhancement paragraph(s), which were not waived, and alleges Defendant to have been convicted previously of any felony or offenses for the purpose of enhancement of punishment, then the Court asked Defendant if such allegations were true or false and Defendant answered as shown above. And when Defendant is shown above to have elected to have the jury assess punishment, such jury was called back into the box and heard evidence relative to the question of punishment and having been duly charged by the Court, they retired to consider such question, and after having deliberated, they returned into Court the verdict shown under punishment above; and when Defendant is shown above to have elected to have punishment fixed by the Court, in due form of law further evidence was heard by the Court relative to the question of punishment and the Court fixed the punishment of the Defendant as shown above.

IT IS THEREFORE CONSIDERED AND ORDERED by the Court, in the presence of the Defendant, that the said judgment be, and the same is hereby in all things approved and confirmed, and that the Defendant is adjudged guilty of the offense set forth above as found by the verdict of the jury, as set forth above, and said Defendant be punished in accordance with the Jury Verdict or the Court's Finding, as shown above and that the Defendant is sentenced to a term of imprisonment or fine or both, as set forth above, and that said Defendant be delivered by the Sheriff to the Director of the Institutional Division of the Texas Department of Criminal Justice, or other person legally authorized to receive such convicts for the punishment assessed herein, and the said Defendant shall be confined for the above named term in accordance with the provisions of law governing such punishments and execution may issue as necessary.

And, if shown above that the Defendant has been duly and legally convicted of a prior offense by showing the court, cause number, and offense, together with the punishment for such offense and date Defendant was sentenced for such offense in accordance with such conviction, then it is further ORDERED AND ADJUDGED that the punishment herein adjudged against said Defendant shall begin when the judgment in such prior offense, when shown above, shall have ceased to operate.

And the said Defendant is remanded to jail until said Sheriff can obey the direction of this judgment.



PRESIDING JUDGE

Date Signed : MAY 20, 2004

Notice of Appeal : MAY 20, 2004

Mandate Received : _____



**IN THE COURT OF CRIMINAL APPEALS
OF TEXAS**

NO. WR-65,590-13

EX PARTE ALLEN FITZGERALD CALTON, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 0843168D IN THE 213th DISTRICT COURT
FROM TARRANT COUNTY**

Per curiam.

ORDER

Pursuant to the provisions of Article 11.07 of the Texas Code of Criminal Procedure, the clerk of the trial court transmitted to this Court this application for writ of habeas corpus. *Ex parte Young*, 418 S.W.2d 824, 826 (Tex. Crim. App. 1967). Applicant was convicted of attempted murder and sentenced to life imprisonment.

In his present application, Applicant raises four grounds for challenging his conviction. This application, however, presents a more serious question. This Court's records reflect that Applicant has filed six prior applications challenging this conviction. It is obvious from the record that

Appendix "F" opp. p. 10

Applicant continues to raise issues that have been presented and rejected in previous applications or that should have been presented in previous applications. The writ of habeas corpus is not to be lightly or easily abused. *Sanders v. U.S.*, 373 U.S. 1 (1963); *Ex parte Carr*, 511 S.W.2d 523 (Tex. Crim. App. 1977). Because of his repetitive claims, we hold that Applicant's claims are barred from review under Article 11.07, § 4, and are waived and abandoned by his abuse of the writ. This application is dismissed.

Therefore, we instruct the Honorable Louise Pearson, Clerk of the Court of Criminal Appeals, not to accept or file the instant application for a writ of habeas corpus, or any future application attacking this conviction unless Applicant is able to show in such an application that any claims presented have not been raised previously and that they could not have been presented in a previous application for a writ of habeas corpus. *Ex parte Bilton*, 602 S.W.2d 534 (Tex. Crim. App. 1980).

Filed: May 28, 2008
Do Not Publish

Appendix "F" app. p. 11

OFFICIAL NOTICE FROM COURT OF CRIMINAL APPEALS OF TEXAS FILE COPY
P.O. BOX 12308, CAPITOL STATION, AUSTIN, TEXAS 78711

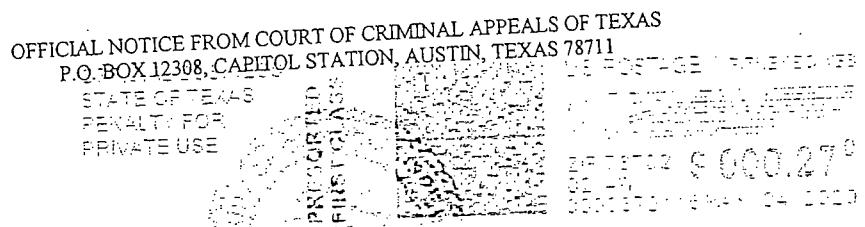
1/29/2020
CALTON, ALLEN FITZGERALD Tr. Ct. No. C-213-011065-0843168-MWR-
65,590-27
This is to advise that the Court has dismissed without written order the original
application for writ of habeas corpus.

Deana Williamson, Clerk

ALLEN FITZGERALD CALTON
CONNALLY UNIT - TDC # 1123880
899 FM 632
KENEDY, TX 78119

AMERICAN 78119

Appendix "G" app. p. 12



4/29/2020

WR-65,590-28

CALTON, ALLEN FITZGERALD Tr. Ct. No. _____
This is to advise that the Court has denied without written order the motion for leave
to file the original application for writ of habeas corpus.

Deana Williamson, Clerk

ALLEN FITZGERALD CALTON
CONNALLY UNIT - TDC # 1123880
899 FM 632
KENEDY, TX 78119

DMIUNAS 78119



Appendix "H" app. p. 13

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 19-11206

In re: ALLEN FITZGERALD CALTON,

Movant

Motion for an order authorizing
the United States District Court for the
Northern District of Texas to consider
a successive 28 U.S.C. § 2254 application

Before DAVIS, STEWART, and OLDHAM, Circuit Judges.

PER CURIAM:

Allen Fitzgerald Calton, Texas prisoner # 1123880, moves this court for authorization to file a successive 28 U.S.C. § 2254 application challenging his conviction for attempted murder. He argues that he should be permitted to bring a successive § 2254 application because he has obtained a document indicating that the police had possession of a knife, which would support his theory of self-defense. Further, he argues that he should be allowed to use his actual innocence as a gateway to bring his constitutional claims relating to the dishonest withholding of the knife from him for use at trial.

Calton fails to make a *prima facie* showing that the existence of the knife "if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that, but for constitutional error, no reasonable factfinder would have found [him] guilty," especially in light of the trial testimony of the victim and an eyewitness that Calton shot the victim

Appendix "I" app. p.14

unprovoked. § 2244(b)(2)(B), (b)(3)(C). Calton's assertion of actual innocence is also unavailing. *See McQuiggin v. Perkins*, 569 U.S. 383, 386, 399 (2013). Accordingly, IT IS ORDERED that Calton's motion for authorization to file a successive § 2254 habeas application is DENIED.

This is Calton's fourth unsuccessful motion for authorization, and it is the second in which he seeks to raise claims based on the existence of the knife underlying his theory of self-defense. He is therefore WARNED that the filing of frivolous, repetitive, or otherwise abusive pleadings will invite the imposition of sanctions, which may include dismissal, monetary sanctions, and restrictions on his ability to file pleadings in this court and any court subject to this court's jurisdiction. Calton is INSTRUCTED to review all pending matters in this court and in any court under this court's jurisdiction and move to dismiss any motions that are repetitive, frivolous, or abusive.

MOTION DENIED; SANCTION WARNING ISSUED.

Appendix "I" app. p. 15

C-213-011065-0843168-M

Case No. _____

(The Clerk of the convicting court will fill this line in.)

Evidentiary Hearing Requested

IN THE COURT OF CRIMINAL APPEALS OF TEXAS

APPLICATION FOR A WRIT OF HABEAS CORPUS
SEEKING RELIEF FROM FINAL FELONY CONVICTION
UNDER CODE OF CRIMINAL PROCEDURE, ARTICLE 11.07

FILED
THOMAS A WILDER, DIST. CLERK
TARRANT COUNTY, TEXAS
Clerk for *se*

MAY 26 2017

TIME 1.00
BY JP DEPUTY

NAME: ALLEN "F" CALTON

DATE OF BIRTH: 10-2-67

PLACE OF CONFINEMENT: STILES UNIT, BEAUMONT, TEXAS

TDCJ-CID NUMBER: #1123880 SID NUMBER: #0437930

(1) This application concerns (check all that apply):

<input checked="" type="checkbox"/> a conviction	<input type="checkbox"/> parole
<input type="checkbox"/> a sentence	<input type="checkbox"/> mandatory supervision
<input type="checkbox"/> time credit	<input type="checkbox"/> out-of-time appeal or petition for discretionary review

(2) What district court entered the judgment of the conviction you want relief from?
(Include the court number and county.)

213TH JUDICIAL DISTRICT COURT, TARRANT COUNTY, TEXAS

(3) What was the case number in the trial court?

#0843168

(4) What was the name of the trial judge?

JUDGE ROBERT "BILL" GILLS

Effective: January 1, 2014

1

Application for writ of Habeas Corpus page 1 of 22

Appendix "J" app. p. 16

Rev. 01/14/14

(5) Were you represented by counsel? If yes, provide the attorney's name:

YES LEON HALEY JR. FROM 5-9-02 THRU 5-9-03 AND THEN I PROCEEDED PRO SE AT TRIAL

(6) What was the date that the judgment was entered?

5-20-04

(7) For what offense were you convicted and what was the sentence?

ATTEMPTED MURDER

(8) If you were sentenced on more than one count of an indictment in the same court at the same time, what counts were you convicted of and what was the sentence in each court?

(9) What was the plea you entered? (Check one.)

guilty-open plea guilty-plea bargain
 not guilty *nolo contendere/no contest*

If you entered different pleas to counts in a multi-count indictment, please explain:

(10) What kind of trial did you have?

no jury jury for guilt and punishment
 jury for guilt, judge for punishment

(11) Did you testify at trial? If yes, at what phase of the trial did you testify?

YES AT THE GUILT/INNOCENCE PHASE ONLY

(12) Did you appeal from the judgment of conviction?

yes no

If you did appeal, answer the following questions:

(A) What court of appeals did you appeal to? SECOND DISTRICT OF TEXAS

(B) What was the case number? 02-04-228-CR

(C) Were you represented by counsel on appeal? If yes, provide the attorney's name:

(D) What was the decision and the date of the decision? AFFIRMED ON 11-17-05

(13) Did you file a petition for discretionary review in the Court of Criminal Appeals?

yes no

If you did file a petition for discretionary review, answer the following questions:

(A) What was the case number? PDR# 0036-06

(B) What was the decision and the date of the decision? PETITION WITHDRAWN MARCH 2006

(14) Have you previously filed an application for a writ of habeas corpus under Article 11.07 of the Texas Code of Criminal Procedure challenging *this conviction*?

yes no

If you answered yes, answer the following questions:

(A) What was the Court of Criminal Appeals' writ number? WR-65,590-07 THRU
WR-65,590-17 AND WR-65,590-21

Application for writ of Habeas Corpus page 3 of 22
3
Appendix "J" app. p 18

(B) What was the decision and the date of the decision? INITIAL WRIT DENIED ON 2-27-07
LAST WRIT i.e. WR-65, 590-21 RECEIVED BY COURT NO ACTION TAKEN PER 7-27-16 NOTICE.

(C) Please identify the reason that the current claims were not presented and could not have been presented on your previous application. THE CLAIMS ARE BASED ON NEWLY DISCOVERED EVIDENCE, DESPITE DUE DILIGENCE, WERE NOT DISCOVERED UNTIL 3-29-17 DUE TO THE INTENTIONAL SUPPRESSION OF THE EVIDENCE BY A BIAS COURT, THE STATE AND POLICE. THE STATE AND POLICE DENIED THAT THE KNIFE WAS IN POLICE POSSESSION AT THE TIME OF TRIAL. APPOINTED COUNSEL WAS INEFFECTIVE IN HIS FAILURE TO DISCOVER THE KNIFE IN POLICE POSSESSION FOR THE ENTIRE YEAR THAT HE HAD TO INVESTIGATE THE CASE. THUS THE CLAIMS COULD NOT HAVE BEEN RAISED PRIOR TO 3-29-17 AND ARE NOW BEING PRESENTED AS SCHLUP-TYPE CLAIMS OF ACTUAL INNOCENCE AS A PROCEDURAL GATEWAY THROUGH WHICH TO PASS TO HAVE THESE OTHERWISE BARRED CONSTITUTIONAL CLAIMS CONSIDERED ON THE MERITS.

(15) Do you currently have any petition or appeal pending in any other state or federal court?

yes no

If you answered yes, please provide the name of the court and the case number:

(16) If you are presenting a claim for time credit, have you exhausted your administrative remedies by presenting your claim to the time credit resolution system of the Texas Department of Criminal Justice? (This requirement applies to any final felony conviction, including state jail felonies)

yes no

If you answered yes, answer the following questions:

(A) What date did you present the claim? _____

(B) Did you receive a decision and, if yes, what was the date of the decision?

If you answered no, please explain why you have not submitted your claim:

(17) Beginning on page 6, state *concisely* every legal ground for your claim that you are being unlawfully restrained, and then briefly summarize the facts supporting each ground. You must present each ground on the form application and a brief summary of the facts. *If your grounds and brief summary of the facts have not been presented on the form application, the Court will not consider your grounds.* If you have more than four grounds, use pages 14 and 15 of the form, which you may copy as many times as needed to give you a separate page for each ground, with each ground numbered in sequence. The recitation of the facts supporting each ground must be no longer than the two pages provided for the ground in the form.

You may include with the form a memorandum of law if you want to present legal authorities, but the Court will *not* consider grounds for relief set out in a memorandum of law that were not raised on the form. The citations and argument must be in a memorandum that complies with Texas Rule of Appellate Procedure 73 and does not exceed 15,000 words if computer-generated or 50 pages if not. If you are challenging the validity of your conviction, please include a summary of the facts pertaining to your offense and trial in your memorandum.

GROUND ONE: THE STATE FAILED TO DISCLOSE "BRADY" EVIDENCE THAT WAS IN THE POSSESSION OF INVESTIGATE AGENCIES TO WHICH THE STATE HAD ACCESS TO IN VIOLATION OF

KYLES V WHITLEY 514 U.S. 419 (1995) THAT WOULD HAVE PROVED MY ACTUAL INNOCENCE.

FACTS SUPPORTING GROUND ONE: ON 4-24-02 OFFICER RALEY SEIZED A "BUTCHER KNIFE" FOUND IN THE CAR I WAS ARRESTED IN AFTER THE OFFENSE WAS COMMITTED. SEE ACCOMPANYING APPENDIX IN SUPPORT OF WRIT OF HABEAS CORPUS[HEREAFTER APPENDIX] AT Ex "A" FOR INCIDENT/INVESTIGATION REPORT OF GARLAND P.D. [HEREAFTER "REPORT"] APP.P.1. CONCEALED FROM ME WAS THAT RALEY LOGGED THE KNIFE INTO THE PROPERTY ROOM AND IT REMAINED THERE UNTIL 2-17-05. SEE Ex "B" APP.P.2-22. AFTER RECEIVING THESE PAPERS ON 3-29-17 I BECAME AWARE POLICE POSSESSED THE "BUTCHER KNIFE" BEFORE AND ATLEAST 9 MONTHS AFTER MY MAY 2004 TRIAL. Id APP.P.6-7. I USED ART. 64.01 AS A FISHING EXPEDITION TO CIRCUMVENT GOV'T CODE §552.028 IN SEARCH OF THE TRUTH ABOUT THE "BUTCHER KNIFE". SEE Ex "C" APPLICANT'S AFFIDAVIT APP.P.26 Ln18. ALTHOUGH I MADE SEVERAL OPEN RECORDS REQUEST POST TRIAL TO NOT AVAIL TO THE FORT WORTH P.D. AND GARLAND P.D. Id. ALSO SEE Ex "D"- "H" APP.30-34. GOVERNMENTAL AGENCIES DO NOT HAVE TO RESPOND. SEE Ex "I" AND "J" APP.P35-36. GARLAND P.D. NEVER HAS RESPONDED FOR OBVIOUS REASONS i.e. §1983 LAWSUIT I FILED ON 10-11-02 AGAINST THE AGENCY, THE CITY AND OFFICERS. SEE Ex "K" TSF V4 P.62-63 APP.P.37. ON 7-2-03 AND 1-8-04 THE COURT GRANTED MY BRADY MOTIONS. SEE Ex "L" AND "M" APP.P.38-43; Ex "N" PSF 1-8-04 V.1OF 1 P.28 APP.P.44. I TRIED TO SUBPOENA THE "REPORT" THE COURT DENIED THE SAME. SEE Ex "O" PSF 1-8-04 V.1OF 1 P.12 APP.P.45. I TRIED TO OBTAIN THE "REPORT" UNDER ART. 39.14. THE COURT MERELY GRANTED THE SAME PURSUANT TO RULE 615. SEE Ex "P" PSF 1-16-04 V. 1OF 1 P.23 APP.48. I TRIED THE OPEN RECORDS ACT PROIR TO TRIAL TO OBTAIN THE "REPORT" TO NO AVAIL. Id. P. 21-22 APP.P.46-47. THE COURT ISSUED A SUBPOENA ON 4-26-04 FOR THE COURT'S IN CAMEAR REVIEW FOR RECORDS THAT CONTAINED THE RELEVANT "REPORT" TO SEE IF ANYTHING CONTAINED THEREIN WAS RELEVANT TO THE DEFENSE. SEE Ex "Q" PSF 4-26-04 V.1 OF 1 P.7 APP.P.50. ALSO ON 4-26-04 WHICH WAS TWO WEEKS BEFORE TRIAL I INFORMED THE COURT AND THE STATE THAT ALTHOUGH I HAD YET TO FIND OUT I NEEDED TO KNOW FOR TRIAL PREPARATIONS IF THERE IS OR IS NOT A KNIFE IN THE GARLAND P.D. PROPERTY ROOM BECAUSE ITS EXCULPATORY EVIDENCE. SEE "Q" SUPRA, P.6-7 APP.P.49-50. THE KNIFE SEIZED BY POLICE WOULD CORROBORATE MY STATEMENT TO POLICE, MY TRIAL TESTIMONY AND INVEST MY SELF-DEFENSE THEORY WITH MERIT. SEE Ex "R" APP.P.51-52; Ex "S" TSF V8 P.181-182 APP.P.54. THE JURY WAS CHARGED ON SELF DEFENSE BUT THE DEFENSE WASN'T FULLY ADVANCED OR VIABLE SANS THE KNIFE. SEE EX "T" TSF P.223-224

APP.P.58. ESPECIALLY IN LIGHT OF THE STATE'S CLOSING ARGUMENT AND CROSS-EXAMINATION OF ME WHILE TESTIFYING THAT IMPLIED IF A KNIFE EXISTED AND PLAYED A ROLE IN THE OFFENSE I WOULD HAVE ISSUED A SUBPOENA AND PRESENTED IT AT TRIAL. SEE Ex "U" TSF V9 P.9-10 APP.P.60; Ex "T" SUPRA, P.215-216 APP.P.56. THE OFF THE RECORD COLLOQUY AT THE COURT'S INSISTENCE BETWEEN THE STATE AND DEFENSE. CONSISTED OF THE COURT ORDERING THE STATE TO PRODUCE THE KNIFE TO THE DEFENSE AND THE STATE'S RESPONSE "JUDGE OUR INVESTIGATION INDICATES THERE IS NO KNIFE IN THE POSSESSION OF POLICE RELATED TO THIS OFFENSE" SEE Ex "Q" SUPRA, P.7 APP.P.50; Ex "C" APP.27 Ln.19-20. ON 5-13-04 IN THE MIDDLE OF TRIAL I RECEIVED THE "REPORT" THAT MEMORIALIZED THAT A "BUTCHER KNIFE" WAS SEIZED BY POLICE. SEE Ex "V" TSF V5 P. 37-38 APP.P.63. THAT SAME DAY I HAD A SUBPOENA ISSUED TO THE GARLAND P.D. EVIDENCE CUSTODIAN TO BRING THE KNIFE TO COURT INSTANTER. FOR THE SAME TO BE UTILIZED AT TRIAL AS THE INSTRUMENTALITY OF MY SELF-DEFENSE THEORY. SEE Ex "W" APP.P.64-66. THE RECORD CUSTODIAN SHOWS UP AT TRIAL SANS THE KNIFE ON 5-14-04 AND STATES ALTHOUGH A "BUTCHER KNIFE" WAS RECOVERED THERE WERE NO RECORDS THAT INDICATES THAT IT WAS LOGGED INTO PROPERTY. BECAUSE THE KNIFE WAS NOT USED DURING THE COMMISSION OF THE EVADING ARREST OFFENSE GARLAND P.D. ARRESTED ME FOR. SEE Ex "C" APP.P.27 Ln.22. THIS WAS A BLATANT LIE AND INTENTIONAL SUPPRESION OF THE "BUTCHER KNIFE" IN QUESTION BY POLICE. AS ESTABLISHED BY Ex "B" APP.P.6-7. GARLAND P.D. OFFICER SHUPE CORROBORATED THIS LIE WHEN HE TESTIFIED "THERE IS NO INDICATION THE KNIFE WAS LOGGED INTO THE PROPERTY ROOM. SEE Ex "X" TSF V4 P.49 APP.P.68. SHUPE ALSO CORROBORATED THE RECORD CUSTODIAN'S STATEMENT THAT SINCE THE "BUTCHER KNIFE" WAS NOT USED DURING THE COMMISSION OF THE EVADING ARREST OFFENSE. IT WOULD NOT BE LOGGED INTO THE PROPERTY. SEE Ex "Y" TSF V4 P.59-60 APP.P.69. THE INTENTIONAL SUPPRESSION OF THE "BUTCHER KNIFE" BY POLICE PRECLUDED THE JURY FROM REASONABLY FINDING I ACTED IN SELF-DEFENSE BY SHOOTING THE VICTIM ONE TIME. SEE Ex "Z" TSF V6 P.72 APP.P.71. THE VERDICT IS INVALID AND SHOULD BE INVALIDATED. DUE TO THE ERROR CONTRIBUTED TO MY CONVICTION AND PREVENTED ME FROM PROVING MY ACTUAL INNOCENCE. HAD THE "BUTCHER KNIFE" BEEN ADMITTED INTO EVIDENCE THE ONLY RATIONAL VERDICT WOULD HAVE BEEN NOT GUILTY. IN LIGHT OF MY APPREHENSION OF DANGER ON 4-23-02. WHILE IN A CONFUSED STATE AS A RESULT OF AN INVOLUNTARY INTOXICATION ON 4-8-02 THAT RESULTED IN HYPOGLYCEMIC STATES. SEE Ex "R" APP.P.51-52; Ex "AA" APP. P.72-75; Ex "BB" APP. P.76-87; Ex "CC" APP.P. 102-106; Ex "DD" TSF V4 P.99 APP. P.107. SEE MEMORANDUM/BRIEF FOR ADDITIONAL FACTS AND LAW AT PAGES 4-20 AND P. 20-28 ON FILE HEREIN.

GROUND TWO: THE STATE INTENTIONALLY SUPPRESSED AND/OR FAILED TO DISCLOSE FAVORABLE EVIDENCE THAT WOULD HAVE PROVED MY ACTUAL INNOCENCE IN VIOLATION OF BRADY V MARYLAND 373 U.S. 83 (1963)

FACTS SUPPORTING GROUND TWO: ON 4-24-02 OFFICER RALEY SEIZED A "BUTCHER KNIFE" FOUND IN THE CAR I WAS ARRESTED IN AFTER THE OFFENSE WAS COMMITTED. SEE EX "A" APP. P.1 CONCEALED FROM ME WAS THAT RALEY LOGGED THE "BUTCHER KNIFE" INTO THE PROPERTY ROOM AND IT REMAINED THERE UNTIL 2-17-05. SEE EX "B" APP. P.2-22. AFTER RECEIVING THESE PAPERS ON 3-29-17 I BECAME AWARE POLICE POSSESSED THE "BUTCHER KNIFE" BEFORE AND ATLEAST 9 MONTHS AFTER MY MAY 2004 TRIAL. ID. APP. P.6-7. I USED ART. 64.01 AS A FISHING EXPEDITION TO CIRCUMVENT GOV'T CODE §552.028 IN SEARCH OF THE TRUTH ABOUT THE KNIFE. SEE EX "C" APPLICANT'S AFFIDAVIT APP. P.26 Ln.18. ALTHOUGH I MADE SEVERAL OPEN RECORDS REQUEST POST TRIAL TO NO AVAIL TO THE FORT WORTH P.D. AND GARLAND P.D. ID. ALSO SEE EX "D"- "H" APP. P.30-34. GOVERNMENTAL AGENCIES DO NOT HAVE TO RESPOND. SEE EX "I" AND "J" APP. P. 35-36. GARLAND P.D. NEVER HAS RESPONDED FOR OBVIOUS REASONS i.e. §1983 LAWSUIT I FILED ON 10-11-02 AGAINST THE AGENCY, THE CITY AND OFFICERS. SEE EX "K" TSF V4 P.62-63 APP.P.37. ON 7-2-03 AND 1-8-04 THE COURT GRANTED MY BRADY MOTIONS. SEE EX "L" AND "M" APP.P38-43; EX "N" PSF 1-8-04 V.1OF1 P.28 APP.P.44. I TRIED TO SUBPOENA THE "REPORT" THE COURT DENIED THE SAME. SEE EX "O" PSF 1-8-04 V.1 OF 1 P.12 APP.P45. I TRIED TO OBTAIN THE "REPORT" UNDER ART. 39.14 THE COURT MERELY GRANTED THE SAME PURSUANT TO RULE 615. SEE EX "P" PSF 1-16-04 V. 1 OF 1 P.23 APP. P.48. I TRIED THE OPEN RECORDS PRIOR TO TRIAL TO OBTAIN THE "REPORT" TO NO AVAIL. ID. P.21-22 APP.P.46-47. THE COURT ISSUED A SUBPOENA ON 4-26-04 FOR THE COURT'S IN CAMERA REVIEW FOR RECORDS THAT CONTAINED THE RELEVANT "REPORT" TO SEE IF ANYTHING CONTAINED THEREIN WAS RELEVANT TO THE DEFENSE. SEE EX "Q" PSF 4-26-04 V. 1 OF 1. P.7 APP.P.50. ALSO ON 4-26-04 WHICH WAS TWO WEEKS BEFORE TRIAL I INFORMED THE COURT AND STATE THAT ALTHOUGH I HAD YET TO FIND OUT I NEEDED TO KNOW FOR TRIAL PREPARATION IF THERE IS OR IS NOT A KNIFE IN THE GARLAND P.D. PROPERTY ROOM BECAUSE ITS EXCUPATORY EVIDENCE. SEE EX "Q" SUPRA, P.6-7 APP.P.49-50. THE "BUTCHER KNIFE" SEIZED BY POLICE WOULD CORROBORATE MY STATEMENT TO POLICE, MY TRIAL TESTIMONY AND INVEST MY SELF-DEFENSE THEORY WITH MERIT. SEE EX "R" APP.P51-52; EX "S" TSF V8 P.181-182 APP. P.54. THE JURY WAS CHARGED ON SELF-DEFENSE BUT THE DEFENSE WAS NOT FULLY ADVANCED OR VIABLE SANS THE KNIFE. SEE EX "T" TSF V8 P.223-224 APP. P.58. ESPECIALLY IN LIGHT OF THE STATE'S CLOSING ARGUMENT AND

Application for writ of Habeas Corpus page 8 of 22
Appendix "J" app. p.23

CROSS-EXAMINATION OF ME WHILE TESTIFYING THAT IMPLIED IF A KNIFE EXISTED AND PLAYED A ROLE IN THE OFFENSE I WOULD HAVE ISSUED A SUBPOENA AND PRESENTED IT AT TRIAL. SEE Ex "U" TSF V9 P.9-10. APP.P.60; Ex "T", SUPRA P.215-216 APP.P.56. THE COLLOQUY BETWEEN THE STATE AND THE DEFENSE PERTAINING TO THE "BUTCHER KNIFE" WAS OFF THE RECORD AT THE INSISTENCE OF THE TRIAL COURT. SEE Ex "Q", SUPRA, P.7 APP. P.50; Ex "C" SUPRA, APP. P.27 Ln.19. BUT I CLEARLY RECALL THE COURT ORDERING THE STATE TO PRODUCE THE KNIFE TO THE DEFENSE IF ONE IS IN THE POSSESSION OF THE POLICE. MR. HAGERMAN RESPONDS "JUDGE THE STATE'S INVESTIGATION REVEALS THERE WAS NO KNIFE SEIZED BY GARLAND OR FORT WORTH POLICE IN RELATION TO THIS OFFENSE. DETECTIVE HARDY IN THE COURSE OF HIS INVESTIGATION DID NOT COLLECT A KNIFE. I'LL DOUBLE CHECK JUDGE IF ONE IS LOCATED THE STATE WILL PRODUCE IT TO THE DEFENSE." SEE Ex "C" SUPRA APP.P. 27 Ln.20. IN FACT THE STATE INTENTIONALLY SUPPRESSED THE "REPORT" AT TRIAL BY REMOVING THE FIRST PAGE OF THE "REPORT" THAT MEMORIALIZED THAT A "BUTCHER KNIFE" HAD BEEN SEIZED BY POLICE. AFTER OFFICER SHUPE TESTIFIED THE STATE PROVIDED ME PAGES 2 AND 3 OF THE "REPORT" IN PARTIAL COMPLIANCE WITH RULE 615. SEE Ex "X" TSF V4 P.46-48 APP.P.67; EX."EE", APP.P.108-109. THESE TWO PAGES WERE MARKED AS DEFENSE EXHIBIT #2 AT TRIAL SEE Id. Ex "A" SUPRA, IS PAGE 1 AND Ex "EE" SUPRA, ARE PAGES 2 AND 3 AND TOGETHER MAKE UP THE FIRST 3 PAGES OF THE "REPORT". AS NOTED ABOVE PAGE 1 IS THE PAGE THAT MEMORIALIZES THAT A "BUTCHER KNIFE" WAS SEIZED BY POLICE AND THAT IS WHY MR. HAGERMAN REMOVED THE FIRST PAGE i.e. PAGE 1. ON 5-13-04 IN THE MIDDLE OF TRIAL I RECEIVED THE "REPORT" THAT MEMORIALIZED THAT A "BUTCHER KNIFE" WAS SEIZED BY POLICE. SEE Ex "V" TSF V5 P.37-38 APP.P.63. THAT SAME DAY I HAD A SUBPOENA ISSUED TO THE GARLAND P.D. EVIDENCE CUSTODIAN TO BRING THE KNIFE TO COURT INSTANTER. TO BE UTILIZED AT TRIAL AS THE INSTRUMENTALITY OF MY SELF-DEFENSE THEORY. SEE EX "W" APP.P.64-66. THE RECORD CUSTODIAN DIDN'T PRODUCE THE "BUTCHER KNIFE" AT TRIAL. SEE Ex "C" APP.P.27 Ln.22. THE INTENTIONAL SUPPRESSION OF THE KNIFE BY THE STATE PRECLUDED THE JURY FROM REASONABLY FINDING I ACTED IN SELF-DEFENSE BY SHOOTING THE VICTIM ONE TIME. SEE Ex "Z" TSF V6 P.72 APP.P.71. THE VERDICT IS INVALID AND MUST BE INVALIDATED. THE ERROR CONTRIBUTED TO MY CONVICTION AND PREVENTED ME FROM PROVING MY ACTUAL INNOCENCE. HAD THE "BUTCHER KNIFE" BEEN ADMITTED INTO EVIDENCE THE ONLY RATIONAL VERDICT WOULD HAVE BEEN NOT GUILTY. IN LIGHT OF MY APPREHENSION OF DANGER ON 4-23-02. WHILE IN A CONFUSED STATE AS A RESULT OF AN INVOLUNTARY INTOXICATION ON 4-8-02 THAT RESULTED IN HYPOGLCEMIC STATES. SEE Ex "R" APP. P.51-52; Ex "AA" APP.P.72-75; Ex "BB" APP.P.76-87; Ex "CC" APP.P.102-106; Ex "DD" TSF V4 P.99 APP.P. 107. SEE BRIEF FOR MORE FACTS AND LAW AT PAGES 4-20 AND PAGES 20-30 ON FILE HEREIN.

Application for cont of habeas corpus page 9 of 22
Appendix "J" app. p. 24

Rev. 01/14/14

GROUND THREE:

APPLICANT WAS TRIED BY A BIAS JUDGE IN VIOLATION ARIZONA V FULMANTE 499

U.S. 279 (1991) AND THE 14TH AMENDMENT.

FACTS SUPPORTING GROUND THREE: ON 4-24-02 OFFICER RALEY SEIZED A "BUTCHER KNIFE" FOUND IN THE CAR I WAS ARRESTED IN AFTER THE OFFENSE WAS COMMITTED. SEE Ex "A" APP. P.1 CONCEALED FROM ME WAS THAT RALEY LOGGED THE "BUTCHER KNIFE" INTO THE PROPERTY ROOM AND IT REMAINED THERE UNTIL 2-17-05. SEE Ex "B" APP. P.2-22. AFTER RECEIVING THESE PAPERS ON 3-29-17 I BECAME AWARE POLICE POSSESSED THE "BUTCHER KNIFE" BEFORE AND ATLEST 9 MONTHS AFTER MY MAY 2004 TRIAL. Id. APP. P. 6-7. I USED ART. 64.01 AS A FISHING EXPEDITION TO CIRCUMVENT GOV'T CODE §552.028 IN SEARCH OF THE TRUTH ABOUT THE KNIFE. SEE Ex "C" APP. P.30-34. GOVERNMENTAL AGENCIES DO NOT HAVE TO RESPOND. SEE Ex "I" AND "J" APP. P. 35-36. GARLAND P.D. NEVER HAS RESPONDED FOR OBVIOUS REASONS i.e. §1983 LAWSUIT I FILED ON 10-11-02 AGAINST THE AGENCY, THE CITY AND OFFICERS. SEE Ex "K" TSF V4 P.62-63 APP. P.37. ON 7-2-03 AND 1-8-04 THE COURT GRANTED MY BRADY MOTIONS. SEE Ex "L" AND "M" APP. P.38-43; EX "N" PSF 1-8-04 V.1 OF 1 P.28 APP. P.44. I TRIED TO SUBPOENA THE "REPORT" THE COURT DENIED THE SAME. SEE Ex "O" PSF 1-8-04 V.1 OF 1 P.12 APP. P.45. I TRIED TO OBTAIN THE "REPORT" UNDER ART 39.14 THE COURT MERELY GRANTED THE SAME PURSUANT TO RULE 615. SEE Ex "P" PSF 1-16-04 V. 1 OF 1 P.23 APP. P.48. I TRIED THE OPEN RECORDS ACT PRIOR TO TRIAL TO OBTAIN THE "REPORT" TO NO AVAIL. Id. P.21-22 APP. P.46-47. THE COURT ISSUED A SUBPOENA ON 4-26-04 FOR THE COURT'S IN CAMERA REVIEW FOR RECORDS THAT CONTAINED THE RELEVANT "REPORT" TO SEE IF ANYTHING CONTAINED THEREIN WAS RELEVANT TO THE DEFENSE. SEE Ex "Q" PSF 4-26-04 V. 1 OF 1 P.7 APP. P.50. THE "REPORT" THAT MEMORIALIZED THAT A "BUTCHER KNIFE" WAS SEIZED BY POLICE WAS CONTAINED IN THE MATERIAL THE COURT SUBPOENAED ON 4-26-04 AND REVIEWED ON 5-6-04 THE WEEK BEFORE TRIAL. SEE Ex "V" TSF V5 P.37-38 APP. P.63. JUDGE ROBERT "BILL" GILLS DISHONESTLY SUPPRESSES THE "REPORT" THAT MEMORIALIZED THAT POLICE HAD SEIZED A "BUTCHER KNIFE". WHICH IN LIGHT OF THE FACT THAT JUST DAYS BEFORE THE COURT'S IN CAMERA REVIEW ON 5-6-04, ON 4-26-04 THE SAME DAY THE COURT SUBPOENAED THESE RECORDS. I INFORMED JUDGE GILLS THAT ALTHOUGH I HAD YET TO FIND OUT..I NEEDED TO FIND OUT FOR TRIAL PREPARATION IF THERE IS OR

IS NOT A KNIFE IN THE GARLAND P.D. PROPERTY ROOM BECAUSE ITS EXONERATORY EVIDENCE. SEE EX "Q" SUPRA, P.6-7 APP.P.49-50. THE COURT'S APPARENT KNOWLEDGE OF THE RELEVANCY OF THE "BUTCHER" KNIFE AND ITS DESIRE TO DISHONESTLY SUPPRESS THE SAME ESTABLISHES THE COURT WAS BIAS. THE "BUTCHER KNIFE" SEIZED BY POLICE WOULD CORROBORATE MY STATEMENT TO POLICE, MY TRIAL TESTIMONY AND INVEST MY SELF-DEFENSE THEORY WITH MERIT. SEE EX "R" APP. P.51-52; EX "S" TSF P.181-182 APP.P.54. THE JURY WAS CHARGED ON SELF-DEFENSE BUT THE DEFENSE WAS NOT FULLY ADVANCED OR VIABLE SANS THE KNIFE. SEE EX "T" TSF V8 P223-224 APP.P.58. ESPECIALLY INLIGHT OF THE STATE'S CLOSING ARGUMENT AND CROSS-EXAMINATION OF ME WHILE TESTIFYING THAT IMPLIED IF A KNIFE EXISTED AND PLAYED A ROLE IN THE OFFENSE I WOULD HAVE ISSUED A SUBPOENA AND PRESENTED IT AT TRIAL. SEE EX "U" TSF V9 P.9-10 APP.P.60; EX "T" SUPRA, P.215-216 APP. P.56. THE COURT INSISTED THE COLLOQUY BETWEEN THE STATE AND ME SHOULD NOT BE ON THE RECORD SEE EX "Q" SUPRA, P.7 APP.P.50. SAID COLLOQUY CONSISTED OF THE COURT ORDERING THE STATE TO PRODUCE THE KNIFE IF ONE EXISTS AND THE STATE'S RESPONSE THAT THERE WAS NO KNIFE TO PRODUCE IN RELATION TO THIS OFFENSE. SEE EX "C" APP.27 Ln.19-20. ON 5-13-04 IN THE MIDDLE OF TRIAL I RECEIVED THE "REPORT" THAT MEMORIALIZED THAT A "BUTCHER KNIFE" WAS SEIZED BY POLICE. SEE EX "V" TSF V5 P.37-38 APP.P.63. THAT SAME DAY I HAD A SUBPOENA ISSUED TO THE GARLAND P.D. EVIDENCE CUSTODIAN WHO DID NOT PRODUCE THE "BUTCHER KNIFE" AT TRIAL. SEE EX "C" APP.P.27 Ln22; EX "W" APP.P.64-66. THE COURT'S OBVIOUS BIAS AROSE BECAUSE I RESISTED ITS 45 YEAR SENTENCE AS A PLEA BARGAIN OFFER. JUDGE GILLS HAD A PATTERN OF PARTICIPATING IN THE PLEA BARGAIN PROCESS AND WOULD HAND DOWN A HARSH SENTENCE IF HIS OFFER WAS REJECTED OR IN MY CASE HE SUPPRESSED EXONERATORY EVIDENCE. SEE "FF" APP.110-113. THIS IS THE REASONABLE EXPLANATION FOR HIS ACTIONS AND BIASNESS. AS ESTABLISHED BY JUDGE GILLS DISHONESTLY SUPPRESSING EVIDENCE THAT HE KNEW OR SHOULD HAVE KNOWN THAT WAS FAVORABLE TO MY DEFENSE AND WOULD HAVE PROVED MY ACTUAL INNOCENCE. JUDGE GILLS BIASNESS CAN ALSO BE READILY DETERMINED BY HIS INSISTENCE THAT THE COLLOQUY BETWEEN THE STATE AND DEFENSE BE OFF THE RECORD. SO THAT WAY THE LIES TOLD AND PROMISES MADE THAT WERE TO NEVER BE HONORED WOULD NOT BE RECORDED. IN HOPES THIS DIABOLICAL ACT BY THE GOVERNMENT WOULD NOT BE EXPOSED TO THE TRUTH. SEE EX "C" APP.P.27 Ln19-21; SEE EX "Q" SUPRA, P.7 APP.P.50. AS A RESULT THEREOF THE VERDICT IS INVALID AND SHOULD BE INVALIDATED. SEE ME-MORANDUM/BRIEF FOR ADDITIONAL FACTS AND LAW AT PAGES 4-20 AND PAGES 28-30 ON FILE HEREIN.

Application For writ of Habeas Corpus page 11 of 22
11
Appendix "J" app. p. 26

GROUND FOUR: APPLICANT WAS DENIED A FAIR TRIAL WHEN A BIAS JUDGE DISHONESTLY SUPPRESSED EVIDENCE THAT WOULD HAVE PROVED MY ACTUAL INNOCENCE IN VIOLATION OF EDWARDS V BALISOK 520 U.S. 641 (1997) AND WOLFF V Mc DONNELL 418 U.S. 539 (1974)

FACTS SUPPORTING GROUND FOUR: ON 4-24-02 OFFICER RALEY SEIZED A BUTCHER KNIFE" FOUND IN THE CAR I WAS ARRESTED IN AFTER THE OFFENSE WAS COMMITTED. SEE Ex "A" APP.

P.1 CONCEALED FROM ME WAS THAT RALEY LOGGED THE "BUTCHER KNIFE" INTO THE PROPERTY ROOM AND IT REMAINED THERE UNTIL 2-17-05. SEE Ex "B" APP. P.2-22. AFTER RECEIVING THESE PAPERS ON 3-29-17 I BECAME AWARE POLICE POSSESSED THE "BUTCHER KNIFE" BEFORE AND ATLEAST 9 MONTHS AFTER MY MAY 2004 TRIAL. Id. APP.P. 6-7. I USED ART. 64.01 AS A FISHING EXPEDITION TO CIRCUMVENT GOV'T CODE §552.028 IN SEARCH OF THE TRUTH ABOUT THE KNIFE. SEE Ex "C" APPLICANT'S AFFIDAVIT APP. P.26 Ln.18. ALTHOUGH I MADE SEVERAL OPEN RECORDS REQUEST POST TRIAL TO NO AVAIL TO THE FORT WORTH P.D. AND GARLAND P.D. Id. ALSO SEE Ex "D"- "H" APP. P.30-34. GOVERNMENTAL AGENCIES DO NOT HAVE TO RESPOND. SEE Ex 'I" AND "J" APP.P. 35-36. GARLAND P.D. NEVER HAS RESPONDED FOR OBVIOUS REASONS i.e. §1983 LAWSUIT I FILED ON 10-11-02 AGAINST THE AGENCY, THE CITY AND OFFICERS. SEE Ex "K" TSF V4 P.62-63 APP.P.37. ON 7-2-03 AND 1-8-04 THE COURT GRANTED MY BRADY MOTIONS. SEE Ex "L" AND "M" APP.P.38-43; EX "N" PSF 1-8-04 V.1 OF 1 P.28 APP. P.44. I TRIED TO SUBPOENA THE "REPORT" THE COURT DENIED THE SAME. SEE Ex "O" PSF 1-8-04 V.1 OF 1 P.12 APP.P.45. I TRIED TO OBTAIN THE "REPORT" UNDER ART 39.14 THE COURT MERELY GRANTED THE SAME PURSUANT TO RULE 615. SEE Ex "P" PSF 1-16-04 V 1 OF 1 P.23 APP. P.48. I TRIED THE OPEN RECORDS ACT PRIOR TO TRIAL TO OBTAIN THE "REPORT TO NO AVAIL. Id. P.21-22 APP.P.46-47. THE COURT ISSUED A SUBPOENA ON 4-26-04 FOR THE COURT'S IN CAMERA REVIEW FOR RECORDS THAT CONTAINED THE RELEVANT "REPORT" TO SEE IF ANYTHING CONTAINED THEREIN WAS RELEVANT TO THE DEFENSE. SEE Ex "O" PSF 4-26-04 V. 1 OF 1. P.7 APP.P.50. THE "REPORT" THAT MEMORIALIZED THAT A "BUTCHER KNIFE" WAS SEIZED BY POLICE WAS CONTAINED IN THE MATERIAL THE COURT SUBPOENAED ON 4-26-04 AND REVIEWED ON 5-6-04 THE WEEK BEFORE TRIAL. SEE Ex "V" TSF V5 P.37-38 APP.P.63. JUDGE ROBERT "BILL" GILLS DISHONESTLY SUPPRESSES THE "REPORT" THAT MEMORIALIZED THAT POLICE HAD SEIZED A "BUTCHERKNIFE". WHICH IN LIGHT OF THE FACT THAT JUST DAYS BEFORE THE COURT'S IN CAMERA REVIEW ON 5-6-04. ON 4-26-04 THE SAME DAY THE COURT SUBPOENAED THESE RECORDS. I INFORMED JUDGE GILLS THAT ALTHOUGH I HAD YET TO FIND OUT. I NEEDED TO FIND OUT FOR TRIAL PREPARATION IF THERE IS OR

IS NOT A KNIFE IN THE GARLAND P.D. PROPERTY ROOM BECAUSE ITS EXONERATIVE EVIDENCE. SEE Ex "Q" SUPRA, P.6-7 APP.P.49-50. THE COURT'S APPARENT KNOWLEDGE OF THE RELEVANCY OF THE BUTCHER KNIFE" AND ITS DESIRE TO DISHONESTLY SUPPRESS THE SAME ESTABLISHES THE COURT WAS BIAS. THE "BUTCHER KNIFE" SEIZED BY POLICE WOULD CORROBORATE MY STATEMENT TO POLICE, MY TRIAL TESTIMONY AND INVEST MY SELF-DEFENSE THEORY WITH MERIT. SEE Ex "R" APP. P.51-52; Ex "S" TSF P.181-182 APP.P.54. THE JURY WAS CHARGED ON SELF-DEFENSE BUT THE DEFENSE WAS NOT FULLY ADVANCED OR VIABLE SANS THE KNIFE. SEE Ex "T" TSF V8 P.223-224 APP.P.58.ESPECIALLY IN LIGHT OF THE STATE'S CLOSING ARGUMENT AND CROSS-EXAMINATION OF ME WHILE TESTIFYING THAT IMPLIED IF A KNIFE EXISTED AND PLAYED A ROLE IN THE OFFENSE I WOULD HAVE ISSUED A SUBPOENA AND PRESENTED IT AT TRIAL. SEE Ex "U" TSF V9 P.9-10 APP.P.60; Ex "T" SUPRA, P.215-216 APP. P.56 THE COURT INSISTED THE COLLOQUY BETWEEN THE STATE AND ME SHOULD NOT BE ON THE RECORD SEE Ex "Q" SUPRA, P.7 APP.P.50 SAID COLLOQUY CONSISTED OF THE COURT ORDERING THE STATE TO PRODUCE THE KNIFE IF ONE EXISTS AND THE STATE'S RESPONSE THAT THERE WAS NO KNIFE TO PRODUCE IN RELATION TO THIS OFFENSE. SEE Ex "C" APP.27 Ln19-20. ON 5-13-04 IN THE MIDDLE OF TRIAL I RECEIVED THE "REPORT" THAT MEMORIALIZED THAT A "BUTCHER KNIFE" WAS SEIZED BY POLICE. SEE Ex "V" TSF V5 P.37-38 APP.P.63. THAT SAME DAY I HAD A SUBPOENA ISSUED TO THE GARLAND P.D. EVIDENCE CUSTODIAN WHO DID NOT PRODUCE THE "BUTCHER KNIFE" AT TRIAL. SEE Ex "C" APP.P.27 Ln.22.; Ex "W" APP.P.64-66. THE COURT'S OBVIOUS BIAS AROSE BECAUSE I RESISTED ITS 45 YEAR SENTENCE AS A PLEA BARGAIN OFFER. JUDGE GILLS HAD A PATTERN OF PARTICIPATING IN THE PLEA BARGAIN PROCESS AND WOULD LEVY A HARSH SENTENCE IF HIS OFFER WAS REJECTED OR IN MY CASE HE SUPPRESSED EXONERATIVE EVIDENCE. SEE "FF" APP. 110-113. THIS IS THE REASONABLE EXPLANATION FOR HIS ACTIONS AND BIASNESS. THE DISHONESTLY SUPPRESSION OF EVIDENCE THAT THE JUDGE KNEW OR SHOULD HAVE KNOWN WAS EXONERATIVE PRECLUDED THE JURY FROM REASONABLY FINDING I ACTED IN SELF DEFENSE BY SHOOTING THE VICTIM ONE TIME. SEE Ex "Z" TSF V6 P.72 APP.P.71. THE VERDICT IS INVALID AND SHOULD BE INVALIDATED. THE ERROR CONTRIBUTED TO MY CONVICTION AND PREVENTED ME FROM PROVING MY ACTUAL INNOCENCE. HAD THE "BUTCHER KNIFE" BEEN ADMITTED INTO EVIDENCE THE ONLY RATIONAL VERDICT WOULD HAVE BEEN NOT GUILTY. IN LIGHT OF MY APPREHENSION OF DANGER ON 4-23-02. WHILE IN A CONFUSED STATE AS A RESULT OF AN INVOLUNTARY INTOXICATION ON 4-8-02 THAT RESULTED IN HYPOGLYCEMIC STATES. SEE "R" APP. .51-52; EX "AA" APP. P.72-75; Ex "BB" APP.P.76-87; Ex "CC" APP.P. 102-106, Ex "DD" TSF V4 P.99 APP.P.107. SEE MEMORANDUM/BRIEF FOR ADDITIONAL FACTS AND LAW AT PAGES 4-20 AND PAGES 28-30 ON FILE HEREIN.

GROUND: FIVE: APPLICANT'S COUNSEL WAS INEFFECTIVE IN FAILING TO CONDUCT
A REASONABLE PRETRIAL INVESTIGATION TO DISCOVER EVIDENCE THAT WOULD HAVE
PROVED MY ACTUAL INNOCENCE IN VIOLATION OF STRICKLAND V WASHINGTON 466 U.S.
668 (1984) AND WIGGINS V SMITH 539 U.S. 510 (2003)

FACTS SUPPORTING GROUND: ON 4-24-02 OFFICER RALEY SEIZED A "BUTCHER KNIFE" FOUND IN THE CAR I WAS ARRESTED IN AFTER THE OFFENSE WAS COMMITTED. SEE Ex "A" APP.P.1. ON 4-26-02 I GAVE A STATEMENT TO FORT WORTH P.D. STATING THAT I GRABBED A SHARP OBJECT THE VICTIM WAS BRANDISHING WHILE LEANING INTO MY VEHICLE. DUE TO THE CUTS SUSTAINED FROM GRABBING THE "BUTCHER KNIFE" RESULTED IN DETECTIVE HARDY TO WRIT THE STATEMENT SEE Ex "R" APP.P.51-52; EX "GG" TSF V8 P.163-164 APP.P.114. ON 5-9-02 LEON HALEY Jr. WAS APPOINTED AS COUNSEL IN THIS CASE. SEE Ex "HH" APP. P.115. THE APPOINTMENT WAS MADE OUT OF ROTATION DUE TO I WAS HELD WITHOUT BOND AND WOULD BE TRIED WITHIN 60 DAYS. AS WELL AS HALEY'S EXPERIENCE AND THAT HE WOULD BE ABLE TO TRY THE CASE WITHIN THAT TIME. SEE Id. AT P.115. HALEY THUS SHOULD HAVE BEGAN PRETRIAL PREPARATION AND INVESTIGATION IMMEDIATELY IN LIGHT OF THOSE CIRCUMSTANCES. SEE Id. APP.P.115. DURING A VISIT WITH HALEY ON 5-17-02 I PUT HIM ON NOTICE THAT I GRABBED THE BLADE OF A KNIFE THE VICTIM APPEARED TO BE BRANDISHING WHILE LEANING INSIDE MY CAR. HALEY THEN ASKS ME IF I WAS CUT AND I TOLD HIM YES. I THEN SHOWED HALEY THE STILL VISIBLE SCAR. HALEY THEN ASKS IF I HAD BEEN TREATED BY MEDICAL PERSONNEL FOR THE INJURY. I TOLD HIM NO BECAUSE I BECAME COMBATIVE AT THE HOSPITAL AND DOCTORS HAD ME REMOVED BEFORE TREATMENT COULD BE RENDERED. HALEY THEN TELLS ME THE INJURY MUST BE MEDICALLY DOCUMENTED FOR SELF-DEFENSE AND TO HAVE JAIL MEDICAL PERSONNEL DOCUMENT IT. SEE Ex "C" APP.P.26 Ln.14-16; Ex "GG" SUPRA P.163-164 APP.P.114; EX "II" TSF V4 P.23 APP.P121. THAT SAME DAY ON 5-17-02 I FILLED OUT A REQUEST FOR SERVICES AND ON 5-18-02 NURSE L. PARSLEY WITNESSED AND VERIFIED MY HEALED SCAR ON MY RIGHT PALM FOR LEGAL PURPOSES. SEE Ex "JJ" APP.P.122. THUS HALEY KNEW A KNIFE PLAYED A ROLE IN THE UNDERLYING OFFENSE. SEE Ex "C" APP.P.26 Ln.14-16; Ex "R" APP.P.51-52. HALEY WAS MY LAWYER FROM 5-9-02 UNTIL I WAIVED MY RIGHT TO COUNSEL ON 5-9-03. SEE "HH" APP.P.115; Ex "KK" APP. P.123. DURING THIS ONE YEAR PERIOD HALEY DID NOT CONDUCT DISCOVERY, FILE A DISCOVERY MOTION, OR BRADY MOTION. SEE CLERK'S DOCKET STATEMENT EX "LL" APP.P.124-134. HAD HALEY FILED A BRADY MOTION THE SAME WOULD HAVE BEEN WELL TAKEN AND GRANTED BY THE COURT LIKE MY PRO SE MOTIONS WERE ON 7-2-03 AND 1-8-04. SEE Ex "L" AND "M" APP.P38-43. DUE TO HALEY BEING A LAWYER IT IS REASONABLE TO BELIEVE THE STATE WOULD HAVE MADE THE KNIFE IN POLICE POSSESSION KNOWN TO HALEY. THE "BUTCHER KNIFE" WOULD HAVE THEN BEEN KNOWN TO THE DEFENSE. AFFORDING THE DEFENSE

14
Application for writ of Habeas Corpus page 14 of 22
Appendix "J" opp. p. 29

TO UTILIZE THE SAME AT TRIAL AS THE INSTRUMENTALITY OF MY SELF-DEFENSE THEORY. IN CORROBORATION WITH MY STATEMENT TO POLICE, MY TRIAL TESTIMONY AND INVESTIGATING MY SELF-DEFENSE THEORY WITH MERIT. SEE "R" APP.P.51-52; Ex "S" TSF V8 P.181-182 APP.P.54. THE JURY WAS CHARGED ON SELF-DEFENSE BUT THE DEFENSE WAS NOT FULLY ADVANCED OR VIABLE SANS THE KNIFE. SEE Ex "T" TSF P.223-224 APP.P.58. ESPECIALLY IN LIGHT OF THE STATE'S CLOSING ARGUMENT AND CROSS-EXAMINATION OF ME WHILE TESTIFYING THAT IMPLIED IF A KNIFE EXISTED OR PLAYED A ROLE IN THE OFFENSE I WOULD HAVE ISSUED A SUBPOENA AND PRESENTED IT AT TRIAL. SEE Ex "U" TSF V9 P.9-10 APP.P.60; Ex "T" SUPRA, P.215-216 APP.P.56. HALEY FAILED TO CONDUCT A REASONABLE PRETRIAL PREPARATION AND INVESTIGATION TO THE EXTENT THAT WOULD HAVE REVEALED THAT A "BUTCHER KNIFE" WAS SEIZED AND IN POSSESSION OF POLICE. A MINIMAL EFFORT e.g. UTILIZING THE OPEN FILE POLICY, THE OPEN RECORDS ACT, ART. 39.14 OR FILE A BRADY OR CONDUCT DISCOVERY. ANY OF THE AFOREMENTIONED WOULD HAVE LED TO THE INCIDENT/INVESTIGATION REPORT THAT MEMORIALIZED THAT A "BUTCHER KNIFE" HAD BEEN SEIZED BY POLICE. SEE Ex "A" APP.P.1. THEN IN TURN INTERVIEWING THE SEIZING OFFICER TO ASCERTAIN THE WHEREABOUTS OF THE "BUTCHER KNIFE". OFFICER RALEY WOULD'VE BEEN COMPELLED TO TELL HALEY ITS BEEN LOGGED INTO THE GARLAND P.D. PROPERTY ROOM. HALEY OBVIOUSLY DIDN'T KNOW ABOUT A "BUTCHER KNIFE" BEING SEIZED OUT OF MY VEHICLE BECAUSE HE NEVER TOLD ME ABOUT IT. SEE Ex "C" APP.P.26 Ln.17. AS FURTHER ESTABLISHED BY MY STATEMENT IN COURT ON 4-26-04. "I HAVE YET TO FIND OUT BUT I NEED TO KNOW FOR TRIAL PREPARATION IF THERE IS OR IS NOT A KNIFE IN THE GARLAND P.D. PROPERTY ROOM. SEE Ex "Q" PSF 4-26-04 V. 1 OF 1 P.6-7 APP.49-50. IF HALEY KNEW THAT A KNIFE HAD BEEN SEIZED BY POLICE ON 4-24-02 AND REMAINED IN THE POSSESSION OF POLICE UNTIL 2-17-05 9 MONTHS AFTER MY MAY 2004 TRIAL. SEE EX "A" APP.P.1; Ex "B" APP.P.2-22. HALEY HAD A DUTY TO PUT ME ON NOTICE OF THE SAME. HALEY'S FAILURE TO DISCOVER THE "BUTCHER KNIFE" PRECLUDED THE JURY FROM REASONABLY FINDING I ACTED IN SELF-DEFENSE BY SHOOTING THE VICTIM ONE TIME. SEE Ex "Z" TSF V6 P.72 APP.P.71. THE VERDICT IS INVALID AND MUST BE INVALIDATED. THE ERROR CONTRIBUTED TO MY CONVICTION AND PREVENTED ME FROM PROVING MY ACTUAL INNOCENCE. HAD THE "BUTCHER KNIFE" BEEN ADMITTED INTO EVIDENCE THE ONLY RATIONAL VERDICT WOULD HAVE BEEN NOT GUILTY. IN LIGHT OF MY APPREHENSION OF DANGER ON 4-23-02. WHILE IN A CONFUSED STATE AS A RESULT OF AN INVOLUNTARY INTOXICATION ON 4-8-02 THAT RESULTED IN HYPOGLYCEMIC STATES. SEE Ex "R" P.51-52; Ex "AA" APP.P. 72-75; Ex "BB" APP.P 76-87; Ex "CC" APP.P 102-106; Ex "DD" TSF V4 P.99 APP.P.107. SEE MEMORANDUM/BRIEF FOR ADDITIONAL FACTS AND LAW AT PAGES 4-20 AND PAGES 30-49. ON FILE HEREIN.

GROUND: SIX: APPLICANT'S COUNSEL SO UTTERLY FAILED TO DISCOVER EVIDENCE THAT WOULD HAVE PROVED MY ACTUAL INNOCENCE. WHICH RENDERED MY TRIAL THE FUNCTIONAL EQUIVALENT TO A GUILTY PLEA. THUS COUNSEL'S REPRESENTATION WAS WHOLLY INSUFFICIENT AND WOEFULLY INADEQUATE AND PREJUDICE SHOULD BE PRESUMED IN VIOLATION ON U.S. V CRONIC 466 U.S. 648 (1984)

FACTS SUPPORTING GROUND: ON 4-24-02 OFFICER RALEY SEIZED A "BUTCHER KNIFE" FOUND IN THE CAR I WAS ARRESTED IN AFTER THE OFFENSE WAS COMMITTED. SEE Ex "A" APP.P.1. ON 4-26-02 I GAVE A STATEMENT TO FORT WORTH P.D. STATING THAT I GRABBED A SHARP OBJECT THE VICTIM WAS BRANDISHING WHILE LEANING INTO MY VEHICLE. DUE TO THE CUTS SUSTAINED FROM GRABBING THE "BUTCHER KNIFE" RESULTED IN DETECTIVE HARDY TO WRIT THE STATEMENT SEE Ex "R" APP.P.51-52; EX "GG" TSF V8 P.163-164 APP.P.114. ON 5-9-02 LEON HALEY Jr. WAS APPOINTED AS COUNSEL IN THIS CASE. SEE Ex "HH" APP. P.115. THE APPOINTMENT WAS MADE OUT OF ROTATION DUE TO I WAS HELD WITHOUT BOND AND WOULD BE TRIED WITHIN 60 DAYS. AS WELL AS HALEY'S EXPERIENCE AND THAT HE WOULD BE ABLE TO TRY THE CASE WITHIN THAT TIME. SEE Id. AT P.115. HALEY THUS SHOULD HAVE BEGAN PRETRIAL PREPARATION AND INVESTIGATION IMMEDIATELY IN LIGHT OF THOSE CIRCUMSTANCES. SEE Id. APP.P.115. DURING A VISIT WITH HALEY ON 5-17-02 I PUT HIM ON NOTICE THAT I GRABBED THE BLADE OF A KNIFE THE VICTIM APPEARED TO BE BRANDISHING WHILE LEANING INSIDE MY CAR. HALEY THEN ASKS ME IF I WAS CUT AND I TOLD HIM YES. I THEN SHOWED HALEY THE STILL VISIBLE SCAR. HALEY THEN ASKS IF I HAD BEEN TREATED BY MEDICAL PERSONNEL FOR THE INJURY. I TOLD HIM NO BECAUSE I BECAME COMBATIVE AT THE HOSPITAL AND DOCTORS HAD ME REMOVED BEFORE TREATMENT COULD BE RENDERED.. HALEY THEN TELLS ME THE INJURY MUST BE MEDICALLY DOCUMENTED FOR SELF-DEFENSE AND TO HAVE JAIL MEDICAL PERSONNEL DOCUMENT IT. SEE Ex "C" APP.P.26 Ln.14-16; Ex "GG" SUPRA P.163-164 APP.P.114: EX "II" TSF V4 P.23 APP.P121. THAT SAME DAY ON 5-17-02 I FILLED OUT A REQUEST FOR SERVICES AND ON 5-18-02 NURSE L. PARSLEY WITNESSED AND VERIFIED MY HEALED SCAR ON MY RIGHT PALM FOR LEGAL PURPOSES. SEE Ex "JJ" APP.P.122. THUS HALEY KNEW A KNIFE PLAYED A ROLE IN THE UNDERLYING OFFENSE. SEE Ex "C" APP.P.26 Ln.14-16; Ex "R" APP.P.51-52. HALEY WAS MY LAWYER FROM 5-9-02 UNTIL I WAIVED MY RIGHT TO COUNSEL ON 5-9-03. SEE "HH" APP.P.115; Ex "KK" APP. P.123. DURING THIS ONE YEAR PERIOD HALEY DID NOT CONDUCT DISCOVERY, FILE A DISCOVERY MOTION, OR BRADY MOTION. SEE CLERK'S DOCKET STATEMENT Ex "LL" APP.P.124-134. HAD HALEY FILED A BRADY MOTION THE SAME WOULD HAVE BEEN WELL TAKEN AND GRANTED BY THE COURT LIKE MY PRO SE MOTIONS WERE ON 7-2-03 AND 1-8-04. SEE Ex "L" AND "M" APP.P38-43. DUE TO HALEY BEING A LAWYER IT IS REASONABLE TO BELIEVE THE STATE WOULD HAVE MADE THE KNIFE IN POLICE POSSESSION KNOWN TO HALEY. THE "BUTCHER KNIFE" WOULD HAVE THEN BEEN KNOWN TO THE DEFENSE. AFFORDING THE DEFENSE

14
Application for Writ of Habeas Corpus page 16 of 22
Appendix "J" app. p. 31

TO UTILIZE THE SAME AT TRIAL AS THE INSTRUMENTALITY OF MY SELF-DEFENSE THEORY. IN CORROBORATION WITH MY STATEMENT TO POLICE, MY TRIAL TESTIMONY AND INVESTIGATING MY SELF-DEFENSE THEORY WITH MERIT. SEE "R" APP.P.51-52; Ex "S" TSF V8 P.181-182 APP.P.54. THE JURY WAS CHARGED ON SELF-DEFENSE BUT THE DEFENSE WAS NOT FULLY ADVANCED OR VIABLE SANS THE KNIFE. SEE Ex "T" TSF P.223-224 APP.P.58. ESPECIALLY IN LIGHT OF THE STATE'S CLOSING ARGUMENT AND CROSS-EXAMINATION OF ME WHILE TESTIFYING THAT IMPLIED IF A KNIFE EXISTED OR PLAYED A ROLE IN THE OFFENSE I WOULD HAVE ISSUED A SUBPOENA AND PRESENTED IT AT TRIAL. SEE Ex "U" TSF V9 P.9-10 APP.P.60; EX "T" SUPRA, P.215-216 APP.P.56. HALEY FAILED TO CONDUCT A REASONABLE PRETRIAL PREPARATION AND INVESTIGATION TO THE EXTENT THAT WOULD HAVE REVEALED THAT A "BUTCHER KNIFE" WAS SEIZED AND IN POSSESSION OF POLICE. A MINIMAL EFFORT e.g. UTILIZING THE OPEN FILE POLICY, THE OPEN RECORDS ACT, ART. 39.14 OR FILE A BRADY MOTION OR CONDUCT DISCOVERY. ANY OF THE AFOREMENTIONED WOULD HAVE LED TO THE INCIDENT/INVESTIGATION REPORT THAT MEMORIALIZED THAT A "BUTCHER KNIFE" HAD BEEN SEIZED BY POLICE. SEE Ex "A" APP.P.1 THEN IN TURN INTERVIEWING THE SEIZING OFFICER TO ASCERTAIN THE WHEREABOUTS OF THE "BUTCHER KNIFE". OFFICER RALEY WOULD HAVE BEEN COMPELLED TO TELL HALEY ITS BEEN LOGGED INTO THE GARLAND P.D. PROPERTY ROOM. HALEY OBVIOUSLY DIDN'T KNOW ABOUT A "BUTCHER KNIFE BEING SEIZED OUT OF MY VEHICLE BECAUSE HE NEVER TOLD ME ABOUT IT. SEE Ex "C" APP.26 Ln.17. AS FURTHER ESTABLISHED BY STATEMENT IN COURT ON 4-26-04. "I HAVE YET TO FIND OUT BUT I NEED TO KNOW FOR TRIAL PREPARATION IF THERE IS OR IS NOT A KNIFE IN THE GARLAND P.D. PROPERTY ROOM. SEE Ex "Q" PSF 4-26-04 V. 1 OF 1 P.6-7. APP.P.49-50. IF HALEY KNEW THAT A KNIFE HAD BEEN SEIZED BY POLICE ON 4-24-02 AND REMAINED IN THE POSSESSION OF POLICE UNTIL 2-17-05 9 MONTHS AFTER MY MAY 2004 TRIAL. SEE Ex "A" APP.P.1; Ex "B" APP.P.2-22. HALEY HAD A DUTY TO PUT ME ON NOTICE OF THE SAME. IN LIGHT OF HALEY'S EGREGIOUS ERROR IN FAILING TO DISCOVER THE "BUTCHER KNIFE" MY SELF-DEFENSE THEORY WAS OBLIVIATED AND PREJUDICE SHOULD BE PRESUMED BECAUSE HIS CONDUCT PRECLUDED THE JURY FROM REASONABLE FINDING I ACTED IN SELF-DEFENSE BY SHOOTING THE VICTIM ONE TIME. SEE Ex "Z" TSF V6 P.72 APP.P.71. THE VERDICT IS INVALID AND MUST BE INVALIDATED. THE ERROR CONTRIBUTED TO MY CONVICTION AND PREVENTED ME FROM PROVING MY ACTUAL INNOCENCE. HAD THE "BUTCHER KNIFE" BEEN ADMITTED INTO EVIDENCE THE ONLY RATIONAL VERDICT WOULD HAVE BEEN NOT GUILTY. IN LIGHT OF MY APPREHENSION OF DANGER ON 4-23-02. WHILE IN A CONFUSED STATE AS A RESULT OF AN INVOLUNTARY INTOXICATION THAT RESULTED IN HYPOGLYCEMIA STATES SEE "R" APP.P.51-52; "AA" APP.P.72-75; Ex "BB" APP.P.76-87; Ex "CC" APP.P.102-106; Ex "DD" TSF V4 P.99 APP.P.107. SEE MEMORANDUM/BRIEF FOR ADDITIONAL FACTS AND LAW AT PAGES 4-15 20 AND PAGES 30-49 ON FILE HEREIN.

S 30-49 ON FILE HEREIN.
Application for writ of habeas corpus page 17 of 22
Appendix "J" opp. p. 32 Rev. 01/14/14

GROUND: SEVEN: APPLICANT WAS DENIED DUE PROCESS BY THE COMBINED EFFECTS OF INDIVIDUAL ERRORS, TAKEN TOGETHER, RENDERED THE DEFENSE LESS PERSUASIVE AND DENIED APPLICANT A FAIR TRIAL IN VIOLATION OF CUPP V NAUGHTEN 414 U.S. 141 (1973) AND UNITED STATES V LANE 474 U.U. 438 (1986)

FACTS SUPPORTING GROUND: SEVEN : ON 4-24-02 OFFICER RALEY SEIZED A "BUTCHER KNIFE" FOUND IN THE CAR I WAS ARRESTED IN AFTER THE OFFENSE WAS COMMITTED. SEE Ex"A" APP.P.1. CONCEALED FROM ME WAS RALEY HAD LOGGED THE "KNIFE" INTO THE PROPERTY ROOM. SEE Ex"B" APP.2-22. AFTER RECEIVING THESE PAPERS ON 3-29-17 I BECAME AWARE POLICE POSSESSED THE "KNIFE" BEFORE AND ATLEAST 9 MONTHS AFTER MY MAY 2004 TRIAL. Id. APP.P.6-7. MY LACK OF KNOWLEDGE THAT A "KNIFE" WAS IN POLICE POSSESSION DURING MY TRIAL. WAS DUE TO JUDGE GILLS, THE STATE, AND MY LAWYER. SPECIFICALLY JUDGE GILLS KNEW OR SHOULD HAVE KNOWN THE RELEVANCY OF THE KNIFE. THE WEEK BEFORE TRIAL ON 5-6-04 HE CONDUCTED AN IN CAMERA REVIEW OF RECORDS I ASKED TO BE SUBPOENAED FOR MY DEFENSE ON 4-26-04 FOR DETERMINATION OF RELEVANCY. THE SAME DAY THE SUBPOENA WAS ISSUED ON 4-26-04 I STATED "I NEEDED TO KNOW FOR TRIAL PREPARATION WHETHER THERE IS OR IS NOT A "KNIFE" IN THE GARLAND P.D. PROPERTY ROOM BECAUSE ITS EXCUPATORY EVIDENCE". SEE Ex"Q" PSF 4-26-04 V.1 OF 1 P.6-7 APP.P.49-50; EX"V" TSF V5 P.37-38 APP.63. THE STATE WAS PRESENT WHEN I MADE THIS STATEMENT AND MADE THE COMMENT "JUDGE THE STATE'S INVESTIGATION REVEALS THERE WAS NO KNIFE SEIZED BY THE GARLAND P.D. IN RELATION TO THIS OFFENSE. DETECTIVE HARDY IN THE COURSE OF HIS INVESTIGATION DID NOT COLLECT A "KNIFE". I'LL DOUBLE CHECK JUDGE IF ONE IS AVAILABLE THE STATE WILL PRODUCE IT TO THE DEFENSE". SEE Ex"C" APP.P.27 Ln.20. THE STATE'S AWARENESS OF MY LACK OF KNOWLEDGE ABOUT POLICE'S POSSESSION AND AWARE OF THE EXCUPATORY VALUE OF THE "KNIFE" AND IN LIGHT OF MY GRANTED BRADY MOTIONS DID NOT PRODUCE THE "KNIFE" OR INFORMATION THAT WOULD ALLOW ME TO PROCURE THE "KNIFE" MYSELF. Id. APP.P27 Ln.21; Ex"L" AND "M" APP.P.38-43; Ex"N" PSF 1-8-04 V. 1 OF 1 P.28 APP.P.44. THIS IS IN ADDITION TO THE COURT'S ORDER THAT THE STATE PRODUCE THE "KNIFE" TO THE DEFENSE IF ONE IS IN POLICE POSSESSION. SEE Ex"C" APP.P.27 LN.19. ON 5-13-04 IN THE MIDDLE OF TRIAL I RECEIVED THE "REPORT" THAT MEMORIALIZED THAT A "KNIFE" WAS SEIZED BY POLICE. SEE Ex"V" TSF V5 P.37-38 APP.P.63. THAT SAME DAY I HAD A SUBPOENA ISSUED TO THE GARLAND P.D. EVIDENCE CUSTODIAN TO BRING THE "KNIFE" TO COURT INSTANTER TO BE UTILIZED AS THE INSTRUMENTALITY OF MY SELF-DEFENSE THEORY. SEE Ex"W" APP.P.64-66. THE RECORD CUSTODIAN SHOWS UP AT TRIAL SANS THE "KNIFE" ON 5-14-04 AND STATES ALTHOUGH A KNIFE WAS RECOVERED. THERE NO RECORDS THAT INDICATE IT WAS LOGGED INTO PROPERTY. BECAUSE THE KNIFE WAS NOT USED DURING THE COMMISSION OF THE EVADING ARREST OFFENSE GARLAND P.D. ARRESTED ME FOR. SEE Ex"C" APP.P.27 Ln.22.

THIS WAS A BLATANT LIE AND INTENTIONAL SUPPRESSION OF THE "KNIFE". AS ESTABLISHED BY EX"B" APP.P.6-7. ATTORNEY HALEY FAILED TO CONDUCT A PRETRIAL INVESTIGATION TO THE EXTENT THAT WOULD HAVE REVEALED THAT A "KNIFE" HAD BEEN SEIZED BY POLICE. HALEY WAS APPOINTED COUNSEL ON 5-9-02 AND I WAIVED MY RIGHT TO COUNSEL ON 5-9-03. SEE EX"HH" APP.P.115; EX"KK" APP.P.123. DURING THIS ONE YEAR PERIOD HALEY DID NOT CONDUCT DISCOVERY, FILE A DISCOVERY MOTION OR BRADY MOTION ALTHOUGH IT WOULD HAVE BEEN WELL TAKEN AND GRANTED LIKE MY PROSE BRADY MOTION. SEE EX"LL" APP.P.138-41; EX"LL" APP.P.124-134. DUE TO HALEY BEING A LAWYER IT IS REASONABLE TO BELIEVE THE STATE WOULD HAVE MADE THE "KNIFE" IN POLICE POSSESSION KNOWN TO HALEY AND IN TURN I WOULD HAVE BEEN ON NOTICE. ON 5-17-02 I TOLD HALEY THAT I GRABBED THE "KNIFE" THE VICTIM WAS APPEARED TO BE BRANDISHING WHILE LEANING INSIDE MY CAR. HALEY THEN ASKS ME IF I WAS CUT AND I TOLD HIM YES. HE THEN ASKED IF I HAD BEEN TREATED FOR THE INJURY. I SAID NO BECAUSE I BECAME COMBATIVE AT THE HOSPITAL AND DOCTORS HAD ME REMOVED BEFORE TREATMENT COULD BE RENDERED. HALEY SAYS HAVE THE INJURY DOCUMENTED BY JAIL MEDICAL PERSONNEL FOR SELF-DEFENSE PURPOSES. SEE EX"C" APP.P.26 Ln.14-16; EX"GG" TSF V8 P.163-164 APP.P.114; EX"I" TSF V4 P.23 APP.P.23 APP.P.121. THAT SAME DAY I FILLED OUT A JAIL REQUEST FOR SERVICES ON 5-17-02 AND ON 5-18-02 NURSE L. PARSLEY VERIFIED MY SCAR ON MY RIGHT PALM FOR LEGAL PURPOSES. SEE EX"JJ" APP.P.122. THUS HALEY KNEW A "KNIFE" PLAYED A ROLE IN THE OFFENSE. SEE EX"C" APP.P.26 Ln.14-16. IF HALEY KNEW ABOUT THE "KNIFE" HE NEVER TOLD ME ABOUT IT. AS MY ABOVE STATEMENT TO THE COURT ESTABLISHES. SEE EX"O" SUPRA P.6-7 APP.P.49-50. THE JURY WAS CHARGED ON SELF-DEFENSE BUT THE DEFENSE WAS NOT FULLY ADVANCED OR VIABLE SANS THE "KNIFE". SEE EX"T" TSF V8 P.223-224 APP.P.58. ESPECIALLY IN LIGHT OF THE STATE'S CLOSING ARGUMENT AND CROSS-EXAMINATION OF ME WHILE TESTIFYING THAT IMPLIED IF A "KNIFE" EXISTED OR PLAYED A ROLE IN THE OFFENSE I WOULD HAVE ISSUED A SUBPOENA AND PRESENTED IT AT TRIAL. SEE "U" TSF V9 P.9-10 APP.P.60; EX"T" SUPRA P.215-216 APP.P.56. THE CUMULATIVE EFFECT OF THE ERRORS ABOVE PREJUDICED MY DEFENSE. THE VERDICT IS INVALID AND MUST BE INVALIDATED. THE ERROR CONTRIBUTED TO MY CONVICTION AND PREVENTED ME FROM PROVING MY ACTUAL INNOCENCE. HAD THE "BUTCHER KNIFE" BEEN ADMITTED INTO EVIDENCE THE ONLY RATIONAL VERDICT WOULD HAVE BEEN NOT GUILTY. IN LIGHT OF MY APPREHENSION OF DANGER ON 4-23-02 WHILE IN A CONFUSED STATE AS A RESULT OF AN INVOLUNTARY INTOXICATION ON 4-8-02. THAT RESULTED IN HYPOGLYCEMIC STATES. SEE EX "R" APP.P.51-52; EX"AA" APP.P.72-75; EX"BB" APP.P.76-87; EX"CC" APP.P.102-106; EX"DD" TSF V4 P.99 APP.P.107. SEE MEMORANDUM/BRIEF FOR ADDITIONAL FACTS AND LAW AT PAGES 4-20 AND PAGES 20 THRU 50 ON FILE HEREIN.

WHEREFORE, APPLICANT PRAYS THAT THE COURT GRANT APPLICANT
RELIEF TO WHICH HE MAY BE ENTITLED IN THIS PROCEEDING.

VERIFICATION

This application must be verified or it will be dismissed for non-compliance. For verification purposes, an applicant is a person filing the application on his or her own behalf. A petitioner is a person filing the application on behalf of an applicant, for example, an applicant's attorney. An inmate is a person who is in custody.

The inmate applicant must sign either the "Oath Before a Notary Public" before a notary public or the "Inmate's Declaration" without a notary public. If the inmate is represented by a licensed attorney, the attorney may sign the "Oath Before a Notary Public" as petitioner and then complete "Petitioner's Information." A non-inmate applicant must sign the "Oath Before a Notary Public" before a notary public unless he is represented by a licensed attorney, in which case the attorney may sign the verification as petitioner.

A non-inmate non-attorney petitioner must sign the "Oath Before a Notary Public" before a notary public and must also complete "Petitioner's Information." An inmate petitioner must sign either the "Oath Before a Notary Public" before a notary public or the "Inmate's Declaration" without a notary public and must also complete the appropriate "Petitioner's Information."

OATH BEFORE A NOTARY PUBLIC

STATE OF TEXAS

COUNTY OF _____

_____, being duly sworn, under oath says: "I am the applicant / petitioner (circle one) in this action and know the contents of the above application for a writ of habeas corpus and, according to my belief, the facts stated in the application are true."

Signature of Applicant / Petitioner (circle one)

SUBSCRIBED AND SWORN TO BEFORE ME THIS ____ DAY OF _____, 20 ____.

Signature of Notary Public

PETITIONER'S INFORMATION

Petitioner's printed name: _____

State bar number, if applicable: _____

Address: _____

Telephone: _____

Fax: _____

INMATE'S DECLARATION

I, Allen "F" Calton, am the applicant / petitioner (circle one) and
being presently incarcerated in Jefferson County, Texas, declare under penalty of
perjury that, according to my belief, the facts stated in the above application are true and correct.

Signed on May 22, 20 17.

Allen "F" Calton
Signature of Applicant / Petitioner (circle one)

PETITIONER'S INFORMATION

Petitioner's printed name: _____

Address: _____

Telephone: _____

Fax: _____

Signed on _____, 20 ____.

Signature of Petitioner

**Additional material
from this filing is
available in the
Clerk's Office.**