

Docket No.:

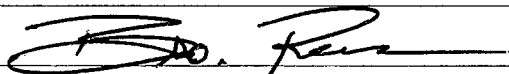
IN THE  
SUPREME COURT OF THE UNITED STATES

IN RE: RANDELL REDMOND

On Petition for Writ of Certiorari  
Court of Appeals for the Fifth Circuit  
20-50635 decided  
IN 20-90037

APPENDIX

Submitted by and for:



RANDELL J. REDMOND

#00727110

LeBlanc Pre Release Soc.

3695 FM 3514

Baumont, Tx. 77705

Appendix "B"

Advisory letter

(1 page)

# *United States Court of Appeals*

FIFTH CIRCUIT  
OFFICE OF THE CLERK

LYLE W. CAYCE  
CLERK

TEL. 504-310-7700  
600 S. MAESTRI PLACE,  
Suite 115  
NEW ORLEANS, LA 70130

December 02, 2020

#727110  
Mr. Randell Joseph Redmond  
CID LeBlanc Pre Release Facility  
3695 FM 3514  
Beaumont, TX 77705-0000

No. 20-50635     Randell Redmond v. Bobby Lumpkin, Director  
USDC No. 5:20-CV-803

Dear Mr. Redmond,

We are in receipt of your letter dated November 29, 2020. We advise the above referenced appeal was closed on November 18, 2020 in light of the Court's order in 20-90037 denying the motion to proceed as a sanctioned litigant.

Sincerely,

LYLE W. CAYCE, Clerk

*Claudia N. Farrington*

By:

Claudia N. Farrington, Deputy Clerk  
504-310-7706

CC:

*Appendix "B"*

Appendix "C"

letter

(1 page)

**United States Court of Appeals**

FIFTH CIRCUIT  
OFFICE OF THE CLERK

LYLE W. CAYCE  
CLERK

TEL. 504-310-7700  
600 S. MAESTRI PLACE,  
Suite 115  
NEW ORLEANS, LA 70130

December 24, 2020

#727110  
Mr. Randell Joseph Redmond  
CID LeBlanc Pre Release Facility  
3695 FM 3514  
Beaumont, TX 77705-0000

No. 20-50635      Redmond v. Lumpkin  
USDC No. 5:20-CV-803

Dear Mr. Redmond,

We received your Petition for Rehearing and Rehearing En Banc. The time for filing a rehearing has expired. Also, in light of the court's order of November 18, 2020, the appeal is dismissed. To remedy the default a motion to reinstate is required with satisfying the outstanding sanction. Therefore, we are taking no action on this petition.

Sincerely,

LYLE W. CAYCE, Clerk



By: \_\_\_\_\_  
Monica R. Washington, Deputy Clerk  
504-310-7705

cc: Mr. Edward Larry Marshall

*Appendix "C" (1)*

Appendix "D"

letter

(1 page)

# United States Court of Appeals

FIFTH CIRCUIT  
OFFICE OF THE CLERK

LYLE W. CAYCE  
CLERK

TEL. 504-310-7700  
600 S. MAESTRI PLACE,  
Suite 115  
NEW ORLEANS, LA 70130

September 02, 2020

#727110  
Mr. Randell Joseph Redmond  
CID Cotulla Transfer Facility  
610 FM 624  
Cotulla, TX 78014-0000

No. 20-50635      Randell Redmond v. Bobby Lumpkin, Director  
USDC No. 5:20-CV-803

Dear Mr. Redmond,

We are taking no action on your motion for single judge to rule on certificate of appealability as it is unnecessary. Upon payment of imposed sanctions, see Court's notice of August 12, 2020, the motion for COA will be submitted to the Court for a ruling.

Sincerely,

LYLE W. CAYCE, Clerk

*Claudia N. Farrington*

By: \_\_\_\_\_

Claudia N. Farrington, Deputy Clerk  
504-310-7706

cc: Mr. Edward Larry Marshall

APPENDIX "E" (1)

Appendix "E"

Names of orthopedics

(1 page)



EXHIBIT "A"

STEVEN G. WHITE, MD	SEGUIN
JACK L. DEETJEN, MD	SEGUIN
WILLIAM C. NEMETH, MD	SAN MARCOS
GERALD M. PENNINGTON, MD	SAN MARCOS
STEPHEN M. NORWOOD, MD	SAN MARCOS
A. COMBS, MD	AUSTIN
RICHARD CAPE, MD	SAN ANTONIO
PATRICK H. WILSON, MD	SAN ANTONIO
RICHARD P. WILSON, MD	SAN ANTONIO
DENNIS R. GUTZMAN, MD	SAN ANTONIO
JAMES W. SIMMONS, MD	SAN ANTONIO
ROBERT B. GLEDHILL, MD	SAN ANTONIO
MIGUEL PELEGRINA, MD	SAN ANTONIO
NANCY R. OTTO, MD	SAN ANTONIO
ALONSO ESCALANTE, MD	SAN ANTONIO
ERADIO ARREDONDO, MD	SAN ANTONIO
JAMES H. DOBYNS, MD	SAN ANTONIO
WILLIAM C. PEDERSON, MD	SAN ANTONIO
EUGENE T. O'BRIEN, MD	SAN ANTONIO
DAVID P. GREEN, MD	SAN ANTONIO
WILLIAM E. SANDERS, MD	SAN ANTONIO

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APPENDIX "E"

Appendix "F"

Order of Circuit Judges

(2 pages)

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT**

\_\_\_\_\_  
No. 17-50335  
\_\_\_\_\_



In re: **RANDELL J. REDMOND,**

\_\_\_\_\_  
Movant  
\_\_\_\_\_

A True Copy

Certified order issued Jun 01, 2017

*Lyfe W. Cayce*  
Clerk, U.S. Court of Appeals, Fifth Circuit

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

\_\_\_\_\_

Before HIGGINBOTHAM, JONES, and PRADO, Circuit Judges.

PER CURIAM:

Randell J. Redmond, Texas prisoner # 727110, moves for authorization to file a successive 28 U.S.C. § 2254 application to challenge his conviction and sentence for murder. Redmond contends that his trial counsel rendered ineffective assistance by failing to secure an orthopedic surgeon as an expert at trial. According to Redmond, the orthopedic surgeon's testimony would have supported his claim of self-defense, and the trial court violated his constitutional rights by preventing him from presenting this testimony. In conjunction with his motion for authorization, Redmond also moves for appointment of counsel.

Redmond must obtain this court's authorization to file his successive application. See 28 U.S.C. § 2244(b)(3). To do so, he must make a prima facie showing that (1) his "claim relies on a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was

APPENDIX "F"

(1)

No. 17-50335

previously unavailable,” or (2) the factual predicate of his claim “could not have been discovered previously through the exercise of due diligence,” and that if the facts underlying his claim were proven and considered in light of the evidence as a whole, they “would be sufficient to establish by clear and convincing evidence that, but for constitutional error, no reasonable factfinder would have found” Redmond guilty of the offense. § 2244(b)(2); *see* § 2244(b)(3)(C).

Redmond has not made the requisite showing. Accordingly, IT IS ORDERED that his motions for authorization and appointment of counsel are DENIED. Despite being previously warned, Redmond has filed another frivolous motion seeking authorization to file a successive § 2254 application. *See In re Redmond*, No. 13-50356 (5th Cir. July 12, 2013) (unpublished). Accordingly, IT IS FURTHER ORDERED that a SANCTION IS IMPOSED. Redmond is ORDERED to pay a monetary sanction in the amount of \$100, payable to the clerk of this court. Redmond is BARRED from filing in this court or in any court subject to this court’s jurisdiction any pleadings that challenge the aforementioned conviction and sentence until the sanction is paid in full, unless he first obtains leave of the court in which he seeks to file such challenge. Redmond is further CAUTIONED that any future frivolous or repetitive filings in this court or any court subject to this court’s jurisdiction will subject him to additional and increasingly severe sanctions.

App. "F"

Appendix "G"  
Newly Discovered Evidence  
(4 pages)

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

**RANDELL JOSEPH REDMOND,**  
**TDCJ No. 0727110,**

**Petitioner,**

**v.**

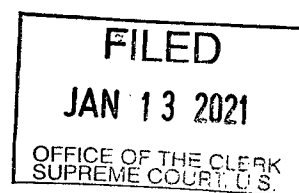
**LORIE DAVIS, Director,**  
**Texas Department of Criminal Justice,**  
**Correctional Institutions Division,**

**Respondent.**

§  
§  
§  
§  
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§  
§  
§  
§  
§  
§

**CIVIL NO. SA-20-CA-803-OLG**

**DISMISSAL ORDER**



Before the Court are *pro se* Petitioner Randell Joseph Redmond's petition for habeas corpus relief pursuant to 28 U.S.C. § 2254 (ECF No. 1) and Motion for Relief from Judgment Pursuant to Rule 60(b) (ECF No. 2). In both pleadings, Petitioner seeks to challenge the constitutionality of his August 1995 murder conviction by presenting several new allegations concerning his trial counsel's failure to present an orthopedic surgeon to support his claim of self-defense.

However, Petitioner previously filed an application for writ of habeas corpus challenging this same conviction and sentence which was denied on August 9, 1999. *See Redmond v. Johnson*, No. 5:98-cv-1032-OLG (W.D. Tex.). Since then, this Court has dismissed as successive three other applications for writ of habeas corpus filed by Petitioner in 2002, 2007, and 2018. *See Redmond v. Cockrell*, No. 5:02-cv-689-OLG (W.D. Tex.); *Redmond v. Quarterman*, No. 5:07-cv-141-XR (W.D. Tex.); *Redmond v. Davis*, No. 5:18-cv-837-OLG (W.D. Tex.). The Fifth Circuit Court of Appeals has also denied several frivolous motions filed by Petitioner seeking authorization to file a successive § 2254 petition. *In re Redmond*, No. 13-

50356 (5th Cir. July 12, 2013); *In re Redmond*, No. 17-50335 (5th Cir. June 1, 2017); *In re Redmond*, No. 18-50813 (5th Cir. Feb. 12, 2020). In fact, Petitioner was sanctioned \$100 by the Fifth Circuit and barred “from filing in [the Fifth Circuit] or in any court subject to [the Fifth Circuit]’s jurisdiction any pleadings that challenge the aforementioned conviction and sentence” unless he has paid that sanction in full or obtains leave of the court in which he seeks to file such pleading. *In re Redmond*, No. 17-50335, at 2.<sup>1</sup>

Before a second or successive application for writ of habeas corpus may be filed in the district court, 28 U.S.C. § 2244(b)(3) provides an applicant must move in the appropriate court of appeals for an order authorizing the district court to consider the application. Similarly, a Rule 60(b) motion that seeks to add a new ground for relief or attack the previous resolution of a claim on the merits is also, in fact, a successive petition subject to the standards of § 2244(b). *Gonzalez v. Crosby*, 545 U.S. 524, 531-32 (2005). As such, the Court finds these successive applications for writ of habeas corpus should be dismissed pursuant to § 2244(b) because Petitioner has not obtained prior approval from the Fifth Circuit to file them. *See Burton v. Stewart*, 549 U.S. 147, 152 (2007) (holding the district court lacked jurisdiction to consider a successive § 2254 petition since petitioner did not obtain authorization from the court of appeals); *In re Campbell*, 750 F.3d 523, 529 (5th Cir. 2014) (petitioner must receive authorization before filing successive habeas petition).

Accordingly, **IT IS HEREBY ORDERED** that:

1. Petitioner’s § 2254 petition (ECF No. 1) and Motion for Relief from Judgment Pursuant to Rule 60(b) (ECF No. 2) are **DISMISSED WITHOUT PREJUDICE** for want of jurisdiction;

---

<sup>1</sup> A review of the docket for that proceeding indicates Petitioner has not yet satisfied this sanction. *See* <http://coa.circ5.dcnlViewCase.aspx> (search for 17-50335), last visited July 21, 2020.

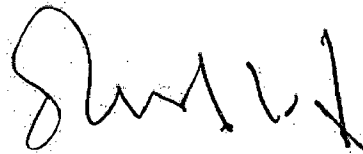
2. The Court's previous Order dated July 13, 2020, granting Petitioner's Motion to Proceed *In Forma Pauperis* (ECF No. 3) is hereby **VACATED**;

3. Petitioner failed to make "a substantial showing of the denial of a federal right" and cannot make a substantial showing that this Court's procedural rulings are incorrect as required by Fed. R. App. P. 22 for a certificate of appealability. See *Slack v. McDaniel*, 529 U.S. 473, 483-84 (2000). Therefore, this Court **DENIES** Petitioner a certificate of appealability. See Rule 11(a) of the Rules Governing § 2254 Proceedings; and

4. All other remaining motions, if any, are **DENIED**, and this case is now **CLOSED**.

It is so **ORDERED**.

**SIGNED** this the 23rd day of July, 2020.

A handwritten signature in black ink, appearing to read 'Orlando L. Garcia', is written over a horizontal line.

**ORLANDO L. GARCIA**  
Chief United States District Judge



*Newly Discovered Evidence*

**CORRECTIONAL MANAGED HEALTH CARE  
MENTAL HEALTH OUTPATIENT SERVICES  
Clinical Interview**

Patient Name: REDMOND, RANDELL J  
TDCJ#: 727110

Date: 07/12/2019 15:33  
Facility: POLUNSKY (TL)

Age: 51  
Sex: male

DOB: 05/17/1968  
Race: BLACK

DOI: 9/5/1995

Patient Language: ENGLISH

Most recent vitals from 5/1/2019:

BP: 115 / 73 (Sitting)	Weight: 238 Lbs.	Height: 73 In.	BMI: 31
Pulse: 60 (Sitting)	Resp: 18 / min	Temp: 98.7 (Oral)	O2 Sat: 97% RA

Allergies: NO KNOWN ALLERGIES

**Current Medications:**

ALLOPURINOL 100MG TABLET  
1 TABS ORAL TWICE DAILY for 30  
Days KOP

EXPIRATION DATE: 12/28/2019 08:48:00AM  
REFILLS: 6 / 11

LAST DATE GIVEN KOP: 06/29/2019 02:45:03PM  
ORDERING PROVIDER: GEDDES, JAMES D

ORDERING FACILITY: POLUNSKY (TL)

AMLODIPINE 10MG TABLET  
1 TABS ORAL EVERY MORNING for 30  
Days KOP

EXPIRATION DATE: 12/28/2019 08:46:00AM  
REFILLS: 6 / 11

LAST DATE GIVEN KOP: 06/29/2019 02:45:08PM  
ORDERING PROVIDER: GEDDES, JAMES D

ORDERING FACILITY: POLUNSKY (TL)

ASPIRIN EC 81MG TABLET  
1 TABS ORAL DAILY for 30 Days KOP

EXPIRATION DATE: 12/28/2019 08:43:00AM  
REFILLS: 6 / 11

LAST DATE GIVEN KOP: 06/29/2019 02:45:13PM  
ORDERING PROVIDER: GEDDES, JAMES D  
ORDERING FACILITY: POLUNSKY (TL)

ATORVASTATIN 40MG TABLET  
1 TABS ORAL DAILY for 30 Days KOP

EXPIRATION DATE: 12/28/2019 08:45:00AM  
REFILLS: 6 / 11

LAST DATE GIVEN KOP: 06/29/2019 02:45:29PM  
ORDERING PROVIDER: GEDDES, JAMES D  
ORDERING FACILITY: POLUNSKY (TL)

BODY LOTION  
1 APPLICS TOPICALLY DAILY for 90  
Days KOP

EXPIRATION DATE: 7/31/2019 11:47:00AM  
REFILLS: 0 / 0

LAST DATE GIVEN KOP: 05/03/2019 10:32:06AM  
ORDERING PROVIDER: MONTGOMERY, LAURI

ORDERING FACILITY: POLUNSKY (TL)

CLOPIDOGREL 75MG TABLET \*  
1 TABS ORAL EVERY EVENING for 30  
Days  
CORONARY STENTS

EXPIRATION DATE: 12/28/2019 08:47:00AM  
REFILLS: 6 / 11

COMPLIANCE: 84.38 %  
ORDERING PROVIDER: GEDDES, JAMES D

ORDERING FACILITY: POLUNSKY (TL)

hydroCHLORothiazide 50MG TAB  
1 TABS ORAL DAILY for 30 Days KOP

EXPIRATION DATE: 12/28/2019 08:44:00AM  
REFILLS: 6 / 11

LAST DATE GIVEN KOP: 06/29/2019 02:45:18PM  
ORDERING PROVIDER: GEDDES, JAMES D  
ORDERING FACILITY: POLUNSKY (TL)

LISINOPRIL 5MG TABLET  
1 TABS ORAL DAILY for 30 Days KOP

EXPIRATION DATE: 12/28/2019 08:47:00AM  
REFILLS: 6 / 11

LAST DATE GIVEN KOP: 06/29/2019 02:44:53PM  
ORDERING PROVIDER: GEDDES, JAMES D  
ORDERING FACILITY: POLUNSKY (TL)

METOPROLOL 50MG TABLET  
1 TABS ORAL TWICE DAILY for 30  
Days KOP

EXPIRATION DATE: 12/28/2019 08:45:00AM  
REFILLS: 6 / 11

LAST DATE GIVEN KOP: 06/29/2019 02:45:24PM  
ORDERING PROVIDER: GEDDES, JAMES D

ORDERING FACILITY: POLUNSKY (TL)

NITROGLYCERIN 0.4MG SL TAB 25s  
1 TABS SUBLINGUAL EVERY 5 MIN  
MAX 3/15 MINUTES for 180 Days KOP  
As Needed (PRN)  
IF CHEST PAIN NOT RELIEVED IN 15  
MINUTES CALL MEDICAL.

EXPIRATION DATE: 12/28/2019 08:45:00AM  
REFILLS: 1 / 1

LAST DATE GIVEN KOP: 06/30/2019 10:35:41AM  
ORDERING PROVIDER: GEDDES, JAMES D

ORDERING FACILITY: POLUNSKY (TL)

*Appendix "G" (1)*

*Newly Discovered Evidence*  
**CORRECTIONAL MANAGED HEALTH CARE  
 MENTAL HEALTH OUTPATIENT SERVICES  
 Clinical Interview**

Patient Name: REDMOND, RANDELL J  
 TDCJ#: 727110

Date: 07/12/2019 15:33  
 Facility: POLUNSKY (TL)

**Current Restrictions/PULHES:**

Start Date	Provider Name	Restriction	Data & Units	Exp Date
04/03/2012	UNKNOWN, UNKNOWN	Bunk Assignment Lower Only		Cont.
04/03/2012	UNKNOWN, UNKNOWN	Row Assignment Ground Floor Only		Cont.
02/10/2016	UNKNOWN, UNKNOWN	Work Assignment 14. No Reaching Over Shoulder		Cont.
02/10/2016	UNKNOWN, UNKNOWN	Work Assignment 16. No Repetitive Use of Hands		Cont.
02/10/2016	UNKNOWN, UNKNOWN	Work Assignment 21a. Medical - No Humidity Extremes		Cont.
02/10/2016	UNKNOWN, UNKNOWN	Work Assignment 21b. Psych - No Humidity Extremes		Cont.
02/10/2016	UNKNOWN, UNKNOWN	Work Assignment 3. Sedentary Work Only		Cont.
02/10/2016	UNKNOWN, UNKNOWN	Work Assignment 4. Four Hour Work Restriction		Cont.
02/10/2016	UNKNOWN, UNKNOWN	Work Assignment 8. No Walking >	500 Yards	Cont.
02/10/2016	UNKNOWN, UNKNOWN	Work Assignment 9. No Lifting >	10 Lbs	Cont.

**P U L H E S**  
 DES: 3 3 1 1 2 1  
 COD: M C A A B A  
 MOD: P P - - P H

**MH OP CLINICAL INTERVIEW NOTE:**

**Reminders Closed:**

Description	Date Time	Closed On	Comments
SCR MH REFER/SCHED (ATC 4 & 5)	07/09/2019 10:00	07/12/2019 15:44	scr 07/09/19

**SUBJECT:** State briefly the problem on which you desire assistance.

*I have a professional question about someone's mental health with a disability/handicap during a placement application. I am not seeking treatment but of this but under the guidelines, you in charge are. I'm already in "300" with court.*

Name: *Randall J. Redmond* No: *727110* Unit: *TL*  
 Living Quarters: *19 X 66* Work Assignment: *to Med. SR.03*

**DISPOSITION:** (inmate will not write in this space)

*mental health  
 JUL 09 2019  
 Redmond*

*Assign  
 Freeman, M#C*

--480 (Rev. 11-90)

Seen this date at: Late entry for 07-11 at appr 12:05 pm.

Subjective:

*Appendix "G" (2)*

*"Newly Discovered EVIDENCE"*  
**CORRECTIONAL MANAGED HEALTH CARE  
MENTAL HEALTH OUTPATIENT SERVICES  
Clinical Interview**

Patient Name: REDMOND, RANDELL J  
TDCJ#: 727110

Date: 07/12/2019 15:33  
Facility: POLUNSKY (TL)

Offender seen for clinical interview as referred by:

Mental Health Sick Call/Referral Triage 07/09/2019

Office visit. "Yes I'm blessed. What I sent that sick-call for is that I wanted an opinion on something. Wee I have problems with my shoulders, they can easily get separated and come out of joint. Now when someone is fighting, can that affect their psychological health. I mean can they react more intensely when fighting because they are afraid that if they don't fight more intensely to defend themselves they might get hurt themselves? See that is what happened to me. That's why I'm in here because I had to defend myself. That's what I wanted to know. I've been locked up for 24 yrs. I am blessed to know the Lord and my mother had always told me that I would be the one to bring God to the others in my family."

Patient reports: Stable.

**Objective:**

**Current mental status:**

**Appearance**

Age: Appears stated age  
Stature: Tall  
Weight: Overweight  
Clothing: Appropriate  
Grooming: Normal  
Posture/Gait: Normal  
Motor: Unremarkable  
Manner: Cooperative

**Sensorium**

Level of Consciousness: Alert  
Attention: No problems  
Concentration: Normal  
Orientation: Oriented X 4  
Recall / Memory: No problem

**Relating**

Eye Contact: Normal  
Facial Expression: Responsive  
Attitude toward examiner: Cooperative

**Affect & Mood**

Affect: Appropriate  
Mood: Euthymic

**Speech**

Speech Rate: No problems  
Speech volume: Normal  
Speech amount: Normal  
Speech articulation: Clear

**Thought**

Thought processing: Coherent, Goal-directed, Logical, Well-organized, Spontaneous  
Thought content: Appropriate to mood / circumstances  
Thought organization: Logical, goal-directed  
Delusions: None  
Preoccupations: None  
Hallucinations: None  
Perceptions: No problems

**Executive Functions**

*Appendix "G" (3)*

*"Newly Discovered Evidence"*  
**CORRECTIONAL MANAGED HEALTH CARE  
MENTAL HEALTH OUTPATIENT SERVICES  
Clinical Interview**

Patient Name: REDMOND, RANDELL J  
TDCJ#: 727110

Date: 07/12/2019 15:33  
Facility: POLUNSKY (TL)

Judgment: Fair  
Insight: Aware of problems  
Abstraction: Normal  
Decision making: Normal  
Reality testing: Normal

Adaptive Skills  
Coping ability: Normal

Risk to Others None

**Suicide Risk Assessment:**

**Is offender reporting thoughts of self-harm?**

**No no**

Assessment: DSM-5 diagnosis:

Summary of clinical findings: He is currently stable. MHC explained that from what he described it is possible for someone to react in that manner.

Procedures Ordered:

Date Time	Description	Diagnosis	Comments	Special Instructions
7/12/2019 03:45PM	MH OP SICK CALL/REFERRAL TRIAGE (F)	NO CURRENT MENTAL HEALTH NEEDS		

P: Disposition:

No further intervention at this time. Access to Care procedure explained

Caseload status:

Not on caseload

PULHES / Restrictions No changes necessary

Electronically Signed by FREEMAN, ANTHONY W. MA, MHC on 07/12/2019.  
##And No Others##

*Appendix "G" (4)*

Appendix "H"

U.S. DISTRICT COURT CIVIL DOCKET

(3 page)

APPEAL,ESC,J.Greenwell,PRO\_SE\_LAW\_CLERK

**U.S. District Court [LIVE]  
Western District of Texas (San Antonio)  
CIVIL DOCKET FOR CASE #: 5:20-cv-00803-OLG**

**Internal Use Only**

Redmond v. Davis  
Assigned to: Chief Judge Orlando L. Garcia  
Case in other court: 5CCA, 20-50635 (Doc. 16)  
Cause: 28:2254 Petition for Writ of Habeas Corpus (State)

Date Filed: 07/02/2020  
Date Terminated: 07/23/2020  
Jury Demand: None  
Nature of Suit: 530 Habeas Corpus  
(General)  
Jurisdiction: Federal Question

**Petitioner****Randell Joseph Redmond**

represented by **Randell Joseph Redmond**  
#00727110  
Cotulla Unit  
HC 62, Box 100  
Cotulla, TX 78014  
PRO SE

V.


**Respondent**

**Lorie Davis**  
*TDCJ-CID Director*


represented by **Edward L. Marshall**  
Assistant Attorney General  
State of Texas  
P.O. Box 12548  
Capitol Station  
Austin, TX 78711-2548  
(512) 936-1400  
Fax: (512) 936-1280  
Email: caddocket@oag.texas.gov  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

Date Filed	#	Docket Text
07/02/2020		THIS CASE HAS BEEN RANDOMLY ASSIGNED TO CHIEF JUDGE ORLANDO L. GARCIA. (dtg) (Entered: 07/10/2020)
07/02/2020		If ordered by the court, all referrals will be assigned to Magistrate Judge Chestney. (dtg) (Entered: 07/10/2020)
07/02/2020	<u>1</u>	Petition for Writ of Habeas Corpus, filed by Randell Joseph Redmond.

**APPENDIX "H" (1)**

		(Attachments: # <u>1</u> Civil Cover Sheet, # <u>2</u> Copies of Cover Letters, # <u>3</u> Copy of Envelope)(dtg) (Entered: 07/10/2020)
07/02/2020	<u>2</u>	Memorandum in Support of <u>1</u> Petition for Writ of Habeas Corpus by Randell Joseph Redmond. (dtg) (Entered: 07/10/2020)
07/02/2020	<u>3</u>	MOTION to Proceed in forma pauperis by Randell Joseph Redmond. (dtg) (Entered: 07/10/2020)
07/02/2020	<u>4</u>	ADVISORY TO THE COURT by Randell Joseph Redmond. (dtg) (Entered: 07/10/2020)
07/02/2020		(Court only) Case Referred to pro se law clerk. (dtg) (Entered: 07/10/2020)
07/10/2020	<u>5</u>	Case Opening Letter to Randell Joseph Redmond. (dtg) (Entered: 07/10/2020)
07/13/2020		Text Order GRANTING <u>3</u> Motion for Leave to Proceed in forma pauperis entered by Chief Judge Orlando L. Garcia. The U.S. Clerk is directed to accept Petitioner's 28 U.S.C. § 2254 Petition for a Writ of Habeas Corpus by a Person in State Custody (ECF No. 1) without prepayment of the required \$5.00 filing fee. (This is a text-only entry generated by the court. There is no document associated with this entry.) (jg5) (Entered: 07/13/2020)
07/23/2020	<u>6</u>	DISMISSAL ORDER re <u>1</u> 2254 Petition for Writ of Habeas Corpus filed by Randell Joseph Redmond, <u>2</u> Memorandum in Support filed by Randell Joseph Redmond are DISMISSED WITHOUT PREJUDICE for want of jurisdiction; The Courts previous Order dated July 13, 2020, granting Petitioners Motion to Proceed In Forma Pauperis (ECF No. 3) is hereby VACATED; this Court DENIES Petitioner a certificate of appealability. All other remaining motions, if any, are DENIED, and this case is now CLOSED. Signed by Chief Judge Orlando L. Garcia. (rg) (Entered: 07/23/2020)
07/23/2020	<u>7</u>	JUDGMENT - ORDERED that the Petitioner Randell Joseph Redmonds petition for habeas corpus relief pursuant to 28 U.S.C. § 2254 (ECF No. 1) and Motion for Relief from Judgment Pursuant to Rule 60(b) (ECF No. 2) are DISMISSED WITHOUTPREJUDICE. No Certificate of Appealability shall issue in this case. Signed by Chief Judge Orlando L. Garcia. (rg) (Entered: 07/23/2020)
07/23/2020	<u>8</u>	ADVISORY TO THE COURT by Randell Joseph Redmond. (rg) (Entered: 07/23/2020)
07/27/2020	<u>9</u>	ADVISORY TO THE COURT by Randell Joseph Redmond. (rg) (Entered: 07/27/2020)
07/30/2020	<u>10</u>	MOTION to assign case to Magistrae Nowak by Randell Joseph Redmond. (rg) (Entered: 08/03/2020)
07/30/2020	<u>11</u>	MOTION for court to consider plain error by Randell Joseph Redmond. (Attachments: # <u>1</u> Exhibit)(rg) (Entered: 08/03/2020)

Appendix "A" (2)

07/31/2020	<u>12</u>	NOTICE OF APPEAL by Randell Joseph Redmond. Per 5th Circuit rules, the appellant has 14 days, from the filing of the Notice of Appeal, to order the transcript. To order a transcript, the appellant should fill out a <a href="#">(Transcript Order)</a> and follow the instructions set out on the form. This form is available in the Clerk's Office or by clicking the hyperlink above. (rg) (Entered: 08/04/2020)
07/31/2020	<u>13</u>	MOTION to proceed In Forma Pauperis on appeal by Randell Joseph Redmond. (rg) (Entered: 08/04/2020)
08/03/2020	<u>14</u>	DESIGNATION of Record on Appeal by Randell Joseph Redmond re <u>12</u> Notice of Appeal (rg) (Entered: 08/04/2020)
08/03/2020	<u>16</u>	NOTICE OF APPEAL by Randell Joseph Redmond. Per 5th Circuit rules, the appellant has 14 days, from the filing of the Notice of Appeal, to order the transcript. To order a transcript, the appellant should fill out a <a href="#">(Transcript Order)</a> and follow the instructions set out on the form. This form is available in the Clerk's Office or by clicking the hyperlink above.***NOTICE OF APPEAL FILED PER 5TH CIRCUIT'S INSTRUCTIONS.*** (Attachments: # <u>1</u> CERTIFICATE OF INTERESTED PERSONS, # <u>2</u> TRANSMITTAL LETTER FROM USCA5)(dtg) (Entered: 08/05/2020)
08/03/2020	<u>17</u>	MOTION to proceed In Forma Pauperis on appeal by Randell Joseph Redmond.***MOTION FOR IFP ON APPEAL FILED PER 5TH CIRCUIT'S INSTRUCTIONS.*** (Attachments: # <u>1</u> TRANSMITTAL LETTER FROM USCA5)(dtg) (Entered: 08/05/2020)
08/05/2020	<u>15</u>	ORDER DISMISSING <u>10</u> Motion to assign case to Magistrate Nowak; DISMISSING <u>11</u> Motion to consider plain error; DISMISSING <u>13</u> Motion to proceed In Forma Pauperis on Appeal. Signed by Chief Judge Orlando L. Garcia. (rg) (Entered: 08/05/2020)
08/07/2020	<u>18</u>	ORDER DENYING <u>17</u> Motion to proceed In Forma Pauperis on Appeal. Signed by Chief Judge Orlando L. Garcia. (rg) (Entered: 08/07/2020)
08/13/2020		(Court only) USCA Case Number 20-50635 (Doc. 16) for <u>16</u> Notice of Appeal, filed by Randell Joseph Redmond. (dtg) (Entered: 08/13/2020)
08/14/2020	<u>19</u>	MOTION requesting copy of docket sheet by Randell Joseph Redmond. (rg) (Entered: 08/18/2020)
08/19/2020	<u>20</u>	ORDER GRANTING <u>19</u> Motion requesting a coy of the docket sheet. Signed by Chief Judge Orlando L. Garcia. (rg) (Entered: 08/20/2020)

App. "A" (3)



Appendix "I"

Charge of the Court

(10 pages)



### III.

Deadly weapon means a firearm or anything manifestly designed, made, or adapted for the purpose of inflicting death or serious bodily injury or anything that in the manner of its use and intended use is capable of causing death and serious bodily injury.

*Appendix "I" (2)*

IV.

Now bearing in mind the foregoing instructions, if you believe from the evidence beyond a reasonable doubt, that the defendant, RANDELL JOSEPH REDMOND, on or about the 20TH day of MAY, 1995, in the County of Gonzales, State of Texas, as alleged in the indictment did then and there intentionally or knowingly cause the death of an individual, DANNY ARMELIN, by shooting the said DANNY ARMELIN, and did then and there use and exhibit a deadly weapon, to-wit: a handgun, then you will find the defendant guilty of the offense of Murder and so say by your verdict.

*Appendix "I" (3)*

27-11-11

Upon the law of self defense you are instructed that a person is justified in using force against another when and to the degree he reasonably believes the force is immediately necessary to protect himself against the other's use or attempted use of unlawful force.

The use of force against another is not justified in response to verbal provocation alone.

A person is justified in using deadly force against another:

(1) if he would be justified in using force against the other; and

(2) if a reasonable person in the defendant's situation would not have retreated; and *at home*

(3) when and to the degree he reasonably believes the deadly force is immediately necessary to protect himself against the other's use or attempted use of unlawful deadly force.

"Reasonable belief" means a belief that would be held by an ordinary and prudent person in the same circumstances as the defendant.

"Deadly force" means force that is intended or known by the person using it to cause, or in the manner of its use or intended use is capable of causing death or serious bodily injury.

" Serious bodily injury" means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

You are further instructed that it is your duty to consider all relevant facts and circumstances surrounding the alleged

*denied at 10/10/11 from and 10/10/11*  
*See 10/10/11*  
*Appendix "I" (4)*

killings and the previous relationship existing between the accused and the deceased, together with all relevant facts and circumstances going to show the condition of the mind of the accused at the time of the alleged offense. *denied*

Now, therefore, bearing in mind the foregoing definitions and instructions, if you believe from the evidence beyond a reasonable doubt that the defendant, RANDELL JOSEPH REDMOND, in the County of GONZALES, State of Texas, on or about the 20TH day of MAY, 1995, did then and there intentionally and knowingly cause the death of DANNY ARMELIN by shooting him with a handgun as alleged in the indictment; but you further find from the evidence, or have a reasonable doubt thereof, that the defendant reasonably believed (as viewed from his standpoint alone) that deadly force when and to the degree used, if it was, was immediately necessary to protect himself against the use or attempted use of unlawful deadly force by the said DANNY ARMELIN; and that at such time a reasonable person in the defendant's situation would not have retreated, you will acquit the defendant and say by your verdict "not guilty."

You are further instructed, however, that if you believe from the evidence beyond a reasonable doubt that at the time and place in question that the deceased was not using or attempting to use unlawful deadly force on the defendant, and that the defendant did not reasonably believe that deadly force when and to the degree used, if it was, was immediately necessary to protect himself against the use or attempted use of unlawful deadly force, as viewed from his standpoint alone, or that a reasonable person in the defendant's position at that time would have retreated, then

you will find against the defendant on his plea of self-defense.

Appendix "I" (b)

All persons are presumed to be innocent and no person may be convicted of an offense unless each element of the offense is proved beyond a reasonable doubt. The fact that a person has been arrested, confined, or indicted for, or otherwise charged with the offense gives rise to no inference of guilt at his trial. The law does not require a defendant to prove his innocence or produce any evidence at all. The presumption of innocence alone is sufficient to acquit the defendant, unless the jurors are satisfied beyond a reasonable doubt of the defendant's guilt after careful and impartial consideration of all the evidence in this case.

The prosecution has the burden of proving the defendant guilty and it must do so by proving each and every element of the offense charged beyond a reasonable doubt, and, if it fails to do so, you must acquit the defendant.

It is not required that the prosecution prove guilt beyond all possible doubt; it is required that the prosecution's proof excludes all "reasonable doubt" concerning the defendant's guilt.

A "reasonable doubt" is a doubt based on reason and common sense after a careful and impartial consideration of all the evidence in the case. It is a kind of doubt that would make a reasonable person hesitate to act in the most important of his own affairs.

Proof beyond a reasonable doubt, therefore, must be proof of such a convincing character that you would be willing to rely and act upon it without hesitation in the most important of your own



affairs.

In the event you have a reasonable doubt as to the defendant's guilt after considering all the evidence before you, and these instructions, you will acquit him and say by your verdict "Not guilty".

You are further instructed as a part of the law in this case that intent may be inferred from acts done, if any, or words spoken, if any.

Do not let bias, prejudice, sympathy, or any other such emotion play any part in your deliberations in this case.

You are the exclusive judges of the facts proved, and the credibility of the witnesses, and of the weight to be given to their testimony, but you are bound to receive the law from the Court, which is herein given you and be governed thereby.

The presiding juror or any other juror who observes a violation of the Court's instructions shall immediately warn the one who is violating the same and caution the juror not to do so again.

You are instructed that you are not to allow yourselves to be influenced in any degree whatsoever by what you may think or surmise the opinion of the Court to be. The Court has no right by any word or act to indicate any opinion respecting any matter of fact involved in this case, nor to indicate any desire respecting its outcome. The Court has not intended to express any opinion upon any matter of fact in this case, and if you have observed anything which you have or may interpret as the Court's opinion upon any matter of fact in this case, you must wholly disregard it.

Appendix "I" (8)

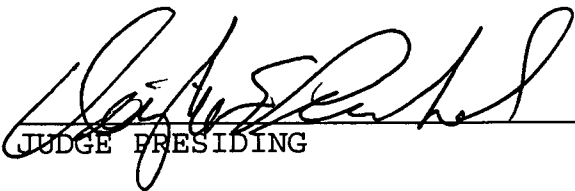
You are limited in your deliberations, as of this time, to the issue of guilt or innocence only. You are not to discuss or consider punishment, if any, in this phase. You are to consider and discuss only the testimony and evidence that was admitted into evidence before you. In this connection, you are instructed that no juror may relate any facts or circumstances of which he or she claim to have knowledge that have not been admitted into evidence before you. If any evidence has been withdrawn from the jury by this Court, you shall not discuss nor consider it for any purpose. You will make no further finding in this case at this time except to sign the appropriate blank on the verdict.

After you have retired to your jury room, you should select one of your members, male or female, as your foreman. It is the foreman's duty to preside at your deliberations, vote with you and, when you have unanimously agreed upon a verdict, to certify to your verdict by signing the same as foreman.

After the argument of counsel, you will retire to the jury room and commence your deliberations. In the event you wish to communicate with the Court, you should reduce your request to writing and have your foreman knock on the door of the jury room for the officer who has you in charge, and the officer will inform the Court of your wish.

Suitable forms for your verdict are hereto attached. Your verdict must be in writing and signed by <sup>your Foreman</sup> ~~all the members of the~~ jury. Your sole duty at this time is to determine the guilt or innocence of the Defendant under the indictment in this case, and

restrict your deliberations solely to the issue of guilt or  
innocence of the Defendant.

  
JUDGE PRESIDING