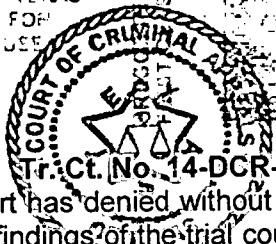


OFFICIAL NOTICE FROM COURT OF CRIMINAL APPEALS OF TEXAS
P.O. BOX 12308, CAPITOL STATION, AUSTIN, TEXAS 78711

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STATE OF TEXAS
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9/9/2020

VAUGHN, LARRY MARCEL Tr.Ct. No. 14-DCR-066396 HC-1 WR-91,633-01
This is to advise that the Court has denied without written order the application for
writ of habeas corpus on the findings of the trial court without a hearing and on the
Court's independent review of the record.

Deana Williamson, Clerk

LARRY MARCEL VAUGHN
TERRELL UNIT - TDC # 2189836
1300 FM 655
ROSHARON, TX 77583

04-17

HMIWNAB 77583



APPENDIX A

CAUSE NO. 14-DCR-066396 HC1

EX PARTE

§ IN THE 240TH DISTRICT COURT

§ OF

**LARRY MARCEL VAUGHN,
Applicant**

§ FORT BEND COUNTY, TEXAS

RESPONDENT'S PROPOSED FINDINGS OF FACT AND ORDER

The Court, having reviewed the application for writ of habeas corpus; Respondent's answer; the reporter's record from the motion to adjudicate guilt hearing conducted on February 28, 2018 (including all exhibits admitted therein); the court-ordered affidavit of STEVEN GILBERT; and the official trial court documents in cause number 14-DCR-066396, hereby enters the following findings of fact:

1. On March 27, 2017, Applicant, represented by his trial counsel, Luro Taylor, waived his right to jury trial and entered a guilty plea to the felony offense of aggravated sexual assault in cause number 14-DCR-066396 in the 240th District Court of Fort Bend County, Texas, and the trial court deferred a finding on Applicant's guilt and placed him on probation for a term of ten (10) years.
2. On February 28, 2018, the trial court conducted a hearing on the State's motion to adjudicate guilt and, after receiving evidence and arguments, adjudicated Applicant's guilt and assessed his punishment at thirty (30) years confinement in the Texas Department of Criminal Justice – Correctional Institutions

Division. On March 5, 2018, the trial court signed the written judgment adjudicating guilt. Appellant was represented by attorney Steven Gilbert in the adjudication phase.

3. On April 11, 2018, the trial court signed an order granting the State's motion for judgment *nunc pro tunc*.
4. On July 19, 2018, Applicant filed a *pro se* notice of appeal.
5. On October 30, 2018, the First Court of Appeals delivered a memorandum opinion dismissing Applicant's direct appeal in cause number 14-DCR-066396. *Vaughn v. State*, No. 01-18-00657-CR, 2018 WL 5540229 (Tex. App.—Houston [1st Dist.] Oct. 30, 2018, no pet.) (mem. op., not designated for publication).
6. On March 2, 2020, Applicant filed a *pro se* application for writ of habeas corpus, cause number 14-DCR-066396 HC1, claiming he was improperly denied his right to appeal in cause number 14-DCR-066396.
7. On April 6, 2020, the trial court signed an order timely designating issues which needed resolution and ordered Applicant's counsel in the adjudication phase, Steven Gilbert, to provide an affidavit addressing Applicant's habeas allegation.
8. On August 17, 2020, Steven Gilbert filed the court-ordered affidavit in cause number 14-DCR-066396 HC1.

9. The Court finds that the assertions contained in the court-ordered affidavit of Steven Gilbert are true and credible.
10. The Court finds, based on the trial court's official records and the credible affidavit of Steven Gilbert, that Gilbert reviewed with and explained to Applicant the trial court's certification of the right to appeal which reflected that Applicant was advised that he had the right to appeal the trial court's adjudication of guilt and sentence, and Appellant placed his initials on and signed the trial court's certification of the right to appeal form.
11. The Court finds, based on the trial court's official records and the credible affidavit of Steven Gilbert, that Gilbert advised Applicant of his right to appeal the trial court's adjudication of Applicant's guilt and his 30-year sentence.
12. The Court finds, based on the credible affidavit of Steven Gilbert, that Applicant informed Gilbert that his family was going to retain different counsel to handle the appeal and did not want Gilbert doing anything in relation to the case because Gilbert was no longer his attorney.
13. The Court finds, based on the credible affidavit of Steven Gilbert, that Applicant was upset about the outcome of the adjudication hearing when he informed Gilbert that he did not want Gilbert to do anything else on his case.

14. The Court finds, based on the credible affidavit of Steven Gilbert, that Gilbert did not file notice of appeal or take any further actions on Applicant's behalf based upon Applicant's direct instructions to not do anything else on the case.

ORDER

THE CLERK IS ORDERED to prepare a transcript of all papers in cause number 14-DCR-066396 HC1 and transmit same to the Texas Court of Criminal Appeals as provided by TEX. CODE CRIM. PROC. art. 11.07 § 3. The transcript shall include certified copies of the following documents:

- A. the application for writ of habeas corpus;
- B. Respondent's answer;
- C. all Court's orders;
- D. the indictment, judgment and sentence, and docket sheets in cause number 14-DCR-066396;
- E. the plea documentation in cause number 14-DCR-066396;
- F. the conditions of probation and all motions to adjudicate guilt in cause number 14-DCR-066396;
- G. all motions and orders for judgment *nunc pro tunc* in cause number 14-DCR-066396;
- H. the reporter's record from the adjudication hearing conducted on February 18, 2018 (including all exhibits admitted therein);

- I. the written notice of appeal and appellate opinion in cause number 14-DCR-066396;
- J. the court-ordered affidavit of STEVEN GILBERT;
- K. Respondent's Proposed Findings of Fact and Order; and
- L. Applicant's Proposed Findings of Fact, Conclusions of Law and Order (if any).

By the following signature, the Court adopts Respondent's Proposed Findings of Fact and Order in Cause Number 14-DCR-066396 HC1.

Signed on this _____ day of **8/19/2020**, 2020.

Frank Fraley
HONORABLE FRANK FRALEY
PRESIDING JUDGE, 240TH DISTRICT COURT
FORT BEND COUNTY, TEXAS

CAUSE NO. 14-DCR-066396 HC1

EX PARTE

§ IN THE 240TH DISTRICT COURT

§ OF

**LARRY MARCEL VAUGHN,
Applicant**

§ FORT BEND COUNTY, TEXAS

CERTIFICATE OF SERVICE

The State respectfully requests that Applicant be served with a copy of Respondent's Proposed Findings of Fact, Conclusions of Law and Order by the Fort Bend County District Clerk's Office pursuant to Article 11.07, Section 7 of the Texas Code of Criminal Procedure.

/s/ Baldwin Chin _____
BALDWIN CHIN
Assistant Criminal District Attorney
Fort Bend County, Texas