

APPENDIX TO PETITION

Case No. 2-16-057

THE STATE OF TEXAS

V.

BRUCE EDWARD BINGHAM

279 Orbit Drive
LAVON, TX 75166

DOB: 09/15/84
DL No.: TX-21028964
SID No.: TX06227448

Sex: M / Race: B
Eyes: Brown / Hair: Black
Height: 511 / Weight: 198

Agency: RPD
Arrested
TRN: 9126393476

**439TH JUDICIAL DISTRICT COURT
ROCKWALL COUNTY, TEXAS**

OFFENSE: 49.08 INTOXICATION MAINTENANCE
W/VEHICLE F2

BY _____

DEPUTY

FILED FOR RECORD
ROCKWALL CO., TEXAS
2016 MAR 16 PM 3:20

KAY M. BRIGHT
DISTRICT CLERK

INDICTMENT

IN THE NAME AND BY AUTHORITY OF THE STATE OF TEXAS:

The Grand Jury of Rockwall County, State of Texas, duly selected, empaneled, sworn, charged, and organized as such at the JANUARY Term, A.D., 2016 of the 382nd Judicial District Court for said County, upon their oaths present in and to said court at said term that,

BRUCE EDWARD BINGHAM

hereinafter styled Defendant, on or about the 23rd day of December, 2015 and before the presentment of this indictment, in the County and State aforesaid, did then and there operate a motor vehicle in a public place while intoxicated by reason of introduction of alcohol into the body, and did by reason of such intoxication cause the death of another, namely, Thomas Madden, by accident or mistake, to-wit: driving said motor vehicle into the motor vehicle occupied by said injured party;

And it is further presented that the defendant used or exhibited a deadly weapon, to-wit: a motor vehicle, during the commission of said offense;

And it is further presented in and to said Court that, prior to the commission of the aforesaid offense, on the 3rd day of October, 2005, in cause number F-0300111-JM in the 194th Judicial District Court of Dallas County, Texas, the defendant was finally convicted of the felony offense of Injury to a Child;

against the peace and dignity of the State.


FOREPERSON OF THE GRAND JURY

CASE NO. 2-16-057

COUNT Single

INCIDENT NO./TRN: 9126393476

MAY 12 2017

THE STATE OF TEXAS

v.

BRUCE EDWARD BINGHAM

STATE ID NO.: TX-06227448

§
§
§
§
§
§
§

439TH JUDICIAL DISTRICT COURT, PM
MAY 12 2017

IN AND FOR

ROCKWALL COUNTY, TEXAS

JUDGMENT OF CONVICTION BY JURY

Judge Presiding:	HON. David Rakow	Date Judgment Entered:	May 12, 2017
Attorney for State:	Lauren Black	Attorney for Defendant:	Juan Sanchez
Offense for which Defendant Convicted: INTOXICATION MANSLAUGHTER W/VEHICLE			
Charging Instrument:	Indictment	Statute for Offense:	49.08(b) PC
Date of Offense:	12/23/2015		
Degree of Offense:	2ND DEGREE FELONY	Plea to Offense:	NOT GUILTY
Verdict of Jury:	GUILTY	Affirmative Findings on:	Deadly Weapon YES
Plea to 1 st Enhancement Paragraph:	N/A	Plea to 2 nd Enhancement/Habitual Paragraph:	TRUE
Findings on 1 st Enhancement Paragraph:	N/A	Findings on 2 nd Enhancement/Habitual Paragraph:	TRUE
Punishment Assessed By:	JURY	Date Sentence Imposed:	May 12, 2017
		Date Sentence to Commence:	May 12, 2017
Punishment and Place of Confinement: SIXTY (60) YEARS TEXAS DEPARTMENT OF CRIMINAL JUSTICE			

THIS SENTENCE SHALL RUN CONCURRENTLY.

☐ SENTENCE OF CONFINEMENT SUSPENDED, DEFENDANT PLACED ON COMMUNITY SUPERVISION FOR N/A .

Fine: \$2,000.00	Court Costs: \$ 439 ⁰⁰	Attorney Fees (if applicable): \$
Restitution: \$	Restitution Payable to: <input type="checkbox"/> VICTIM <input type="checkbox"/> AGENCY/AGENT Name:	
<input checked="" type="checkbox"/> Attachment A, Order to Withdraw Funds, is incorporated into this judgment and made a part hereof. \$25.00 TIME PAYMENT FEE		
The Court FINDS Defendant is convicted of a state jail felony and <input type="checkbox"/> is <input checked="" type="checkbox"/> is not presumptively entitled to diligent participation credit in accordance with Code of Criminal Procedure, article 42.12, Section 15(h). TEX. CODE CRIM. PROC. art. 42.0199		
A victim impact statement <input type="checkbox"/> has / <input type="checkbox"/> has not been returned to the attorney representing the State.		
An attachment <input type="checkbox"/> is / <input type="checkbox"/> is not incorporated into the judgment.		
Sex Offender Registration Requirements do not apply to the Defendant. TEX. CODE CRIM. PROC. chapter 62		
The age of the victim at the time of the offense was N/A .		
Time Credited: (508 DAYS)	NOTES: TOWARD INCARCERATION	

ALL pertinent information, names and assessments indicated above are incorporated into the language of the judgment below by reference.

This cause was called for trial in Rockwall County, Texas. The State appeared by her District Attorney.

Counsel / Waiver of Counsel (select one)

- ☒ Defendant appeared in person with Counsel.
- ☐ Defendant knowingly, intelligently, and voluntarily waived the right to representation by counsel in writing in open court.

It appeared to the Court that Defendant was mentally competent and had pleaded as shown above to the charging instrument. Both parties announced ready for trial. A jury was selected, impaneled, and sworn. The Indictment was read to the jury, and Defendant entered a plea to the charged offense. The Court received the plea and entered it of record.

The jury heard the evidence submitted and argument of counsel. The Court charged the jury as to its duty to determine the guilt or innocence of Defendant, and the jury retired to consider the evidence. Upon returning to open court, the jury delivered its verdict in the presence of Defendant and defense counsel, if any.

The Court received the verdict and **ORDERED** it entered upon the minutes of the Court.

Punishment Assessed by Jury / Court / No election (select one)

- ☒ **Jury.** Defendant entered a plea and filed a written election to have the jury assess punishment. The jury heard evidence relative to the question of punishment. The Court charged the jury and it retired to consider the question of punishment. After due deliberation, the jury was brought into Court, and, in open court, it returned its verdict as indicated above.
- ☐ **Court.** Defendant elected to have the Court assess punishment. After hearing evidence relative to the question of punishment, the Court assessed Defendant's punishment as indicated above.
- ☐ **No Election.** Defendant did not file a written election as to whether the judge or jury should assess punishment. After hearing evidence relative to the question of punishment, the Court assessed Defendant's punishment as indicated above.

The Court **FINDS** Defendant committed the above offense and **ORDERS, ADJUDGES AND DECREES** that Defendant is **GUILTY** of the above offense. The Court **FINDS** the Presentence Investigation, if so ordered, was done according to the applicable provisions of TEX. CODE CRIM. PROC. art. 42.12 § 9.

The Court **ORDERS** Defendant punished as indicated above. The Court **ORDERS** Defendant to pay all fines, court costs, and restitution as indicated above.

Punishment Options (select one)

- ☒ **Confinement in State Jail or Texas Department of Criminal Justice.** The Court **ORDERS** the authorized agent of the State of Texas or the Sheriff of this County to take, safely convey, and deliver Defendant to the Director, Texas Department of Criminal Justice. The Court **ORDERS** Defendant to be confined for the period and in the manner indicated above. The Court **ORDERS** Defendant remanded to the custody of the Sheriff of this county until the Sheriff can obey the directions of this sentence. The Court **ORDERS** that upon release from confinement, Defendant proceed immediately to the **Rockwall County District Clerk**. Once there, the Court **ORDERS** Defendant to pay, or make arrangements to pay, any remaining unpaid fines, court costs, and restitution as ordered by the Court above.
- ☐ **County Jail—Confinement / Confinement in Lieu of Payment.** The Court **ORDERS** Defendant immediately committed to the custody of the Sheriff of Rockwall County, Texas on the date the sentence is to commence. Defendant shall be confined in the **Rockwall County Jail** for the period indicated above. The Court **ORDERS** that upon release from confinement, Defendant shall proceed immediately to the **Rockwall County District Clerk**. Once there, the Court **ORDERS** Defendant to pay, or make arrangements to pay, any remaining unpaid fines, court costs, and restitution as ordered by the Court above.
- ☐ **Fine Only Payment.** The punishment assessed against Defendant is for a **FINE ONLY**. The Court **ORDERS** Defendant to proceed immediately to the Office of the **Rockwall County District Clerk**. Once there, the Court **ORDERS** Defendant to pay or make arrangements to pay all fines and court costs as ordered by the Court in this cause.

Execution / Suspension of Sentence (select one)

- ☒ The Court **ORDERS** Defendant's sentence **EXECUTED**.

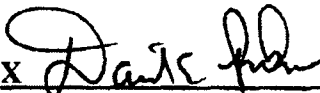
101

☐ The Court **ORDERS** Defendant's sentence of confinement **SUSPENDED**. The Court **ORDERS** Defendant placed on community supervision for the adjudged period (above) so long as Defendant abides by and does not violate the terms and conditions of community supervision. The order setting forth the terms and conditions of community supervision is incorporated into this judgment by reference.

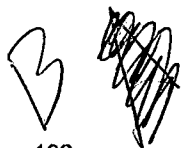
The Court **ORDERS** that Defendant is given credit noted above on this sentence for the time spent incarcerated.

Furthermore, the following special findings or orders apply:

Signed and entered on this the 12th day of May, 2017.

x 

David Rakow
JUDGE PRESIDING



Cause No. 2-16-057

THE STATE OF TEXAS

v.

BRUCE EDWARD BINGHAM

§
§
§
§
§

439TH JUDICIAL DISTRICT COURT

IN AND FOR

ROCKWALL COUNTY, TEXAS

CERTIFICATE OF THUMBPRINT

THIS IS TO CERTIFY THAT THE FINGERPRINTS ABOVE ARE THE ABOVE-NAMED DEFENDANT'S FINGERPRINTS TAKEN AT THE TIME OF DISPOSITION OF THE ABOVE STYLED AND NUMBERED CAUSE.

DONE IN COURT on this the 12th day of May, 2017.

DUGGILL #412
BAILIFF/DEPUTY SHERIFF

*Indicate here if print other than defendants right thumbprint is placed in box:

☐

left thumbprint

☐

left/right index finger

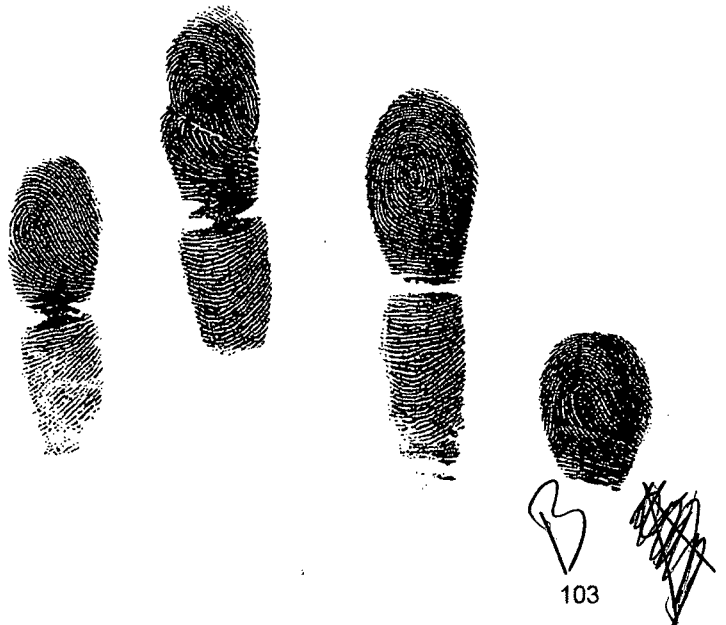
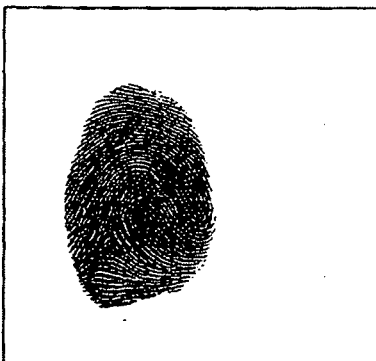
☐

other, _____

Bruce Bingham
Defendant

Defendant's R hand

Defendant's right thumb



AFFIRM; and Opinion Filed January 26, 2018.



**In The
Court of Appeals
Fifth District of Texas at Dallas**

No. 05-17-00641-CR

**BRUCE EDWARD BINGHAM, Appellant
V.
THE STATE OF TEXAS, Appellee**

**On Appeal from the 439th Judicial District Court
Rockwall County, Texas
Trial Court Cause No. 2-16-057**

MEMORANDUM OPINION

Before Justices Bridges, Myers, and Schenck
Opinion by Justice Schenck

A jury convicted Bruce Edward Bingham of intoxication manslaughter with a deadly weapon, a motor vehicle. During the punishment phase, appellant pleaded true to one enhancement paragraph. The jury found the enhancement paragraph true and assessed punishment at sixty years' imprisonment and a \$2,000 fine. On appeal, appellant's attorney filed a brief in which she concludes the appeal is wholly frivolous and without merit. The brief meets the requirements of *Anders v. California*, 386 U.S. 738 (1967). The brief presents a professional evaluation of the record showing why, in effect, there are no arguable grounds to advance. See *High v. State*, 573 S.W.2d 807, 812 (Tex. Crim. App. [Panel Op.] 1978) (determining whether brief meets requirements of *Anders*). Counsel delivered a copy of the brief to appellant. See *Kelly*

A handwritten signature, likely of the author of the opinion, Justice Schenck, consisting of a stylized 'C' followed by a scribbled name.

v. *State*, 436 S.W.3d 313, 319–21 (Tex. Crim. App. 2014) (noting appellant has right to file pro se response to *Anders* brief filed by counsel).

Appellant filed a pro se response raising several issues. After reviewing counsel's brief, appellant's pro se response, and the record, we agree the appeal is frivolous and without merit. *See Bledsoe v. State*, 178 S.W.3d 824, 826–27 (Tex. Crim. App. 2005) (explaining appellate court's duty in *Anders* cases). We find nothing in the record that might arguably support the appeal.

We affirm the trial court's judgment.

/David J. Schenck/

DAVID J. SCHENCK
JUSTICE

Do Not Publish
TEX. R. APP. P. 47

170641F.U05



**Court of Appeals
Fifth District of Texas at Dallas**

JUDGMENT

BRUCE EDWARD BINGHAM, Appellant

No. 05-17-00641-CR V.

THE STATE OF TEXAS, Appellee

On Appeal from the 439th Judicial District
Court, Rockwall County, Texas

Trial Court Cause No. 2-16-057.

Opinion delivered by Justice Schenck.

Justices Bridges and Myers participating.

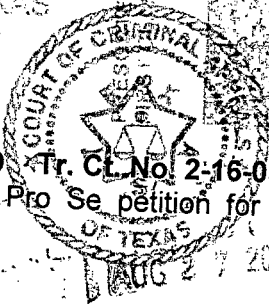
Based on the Court's opinion of this date, the judgment of the trial court is **AFFIRMED**.

Judgment entered this 26th day of January, 2018.



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



8/22/2018

BINGHAM, BRUCE EDWARD Tr. CL No. 2-16-057

COA No. 05-17-00641-CR

PD-0318-18

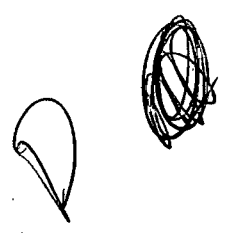
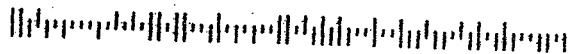
On this day, the Appellant's Pro Se petition for discretionary review has been refused.

Deana Williamson, Clerk

Y421
RM

BRUCE EDWARD BINGHAM
COFFIELD UNIT - TDC # 2136709
2661 FM 2054
TENNESSEE COLONY, TX 75884

EBNAB 75884



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

U.S. POSTAGE & METS BOWES
ZIP 78701 \$ 000.26⁸
02 1W
9001401603 AUG 08 2019

8/7/2019

BINGHAM, BRUCE EDWARD Tr. Ct. No. 2-16-057-A

This is to advise that the Court has denied without written order the application for writ of habeas corpus.

Deana Williamson, Clerk

BRUCE EDWARD BINGHAM
COFFIELD UNIT - TDC # 2136709
2661 FM 2054
TENNESSEE COLONY, TX 75884

SEP 06 2019

CHILWAB 75884



9-19-19
ST-1
2020 006973
SC# 43
Code 399
UGL DR

5-31-21

22

20

2

2

2

3

28

3

2.

22

2

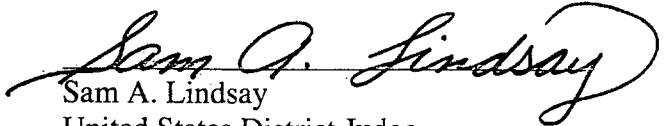
RT

11

Habeas Corpus by a Person in State Custody (Doc. 3); **denies** his request for an evidentiary hearing; and **dismisses with prejudice** this section 2254 habeas action for the reasons stated in the Report.

Considering the record in this case and pursuant to Federal Rule of Appellate Procedure 22(b), Rule 11(a) of the Rules Governing §§ 2254 and 2255 proceedings, and 28 U.S.C. § 2253(c), the court **denies** a certificate of appealability.* The court determines that Petitioner has failed to show: (1) that reasonable jurists would find this court's "assessment of the constitutional claims debatable or wrong;" or (2) that reasonable jurists would find "it debatable whether the petition states a valid claim of the denial of a constitutional right" and "debatable whether [this court] was correct in its procedural ruling." *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). In support of this determination, the court **accepts and incorporates** by reference the Report. In the event that a notice of appeal is filed, Petitioner must pay the \$505 appellate filing fee or submit a motion to proceed in forma pauperis on appeal.

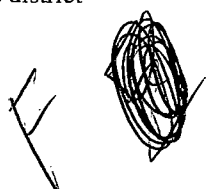
It is so ordered this 31st day of May, 2021.


Sam A. Lindsay
United States District Judge

* Rule 11 of the Rules Governing §§ 2254 and 2255 Cases provides as follows:

(a) **Certificate of Appealability.** The district court must issue or deny a certificate of appealability when it enters a final order adverse to the applicant. Before entering the final order, the court may direct the parties to submit arguments on whether a certificate should issue. If the court issues a certificate, the court must state the specific issue or issues that satisfy the showing required by 28 U.S.C. § 2253(c)(2). If the court denies a certificate, the parties may not appeal the denial but may seek a certificate from the court of appeals under Federal Rule of Appellate Procedure 22. A motion to reconsider a denial does not extend the time to appeal.

(b) **Time to Appeal.** Federal Rule of Appellate Procedure 4(a) governs the time to appeal an order entered under these rules. A timely notice of appeal must be filed even if the district court issues a certificate of appealability.



United States Court of Appeals
for the Fifth Circuit

No. 21-10612

United States Court of Appeals
Fifth Circuit

FILED

February 23, 2022

BRUCE EDWARD BINGHAM, JR.,

Lyle W. Cayce
Clerk

Petitioner—Appellant,

versus

BOBBY LUMPKIN, *Director, Texas Department of Criminal Justice,*
Correctional Institutions Division,

Respondent—Appellee.

Application for Certificate of Appealability from the
United States District Court for the Northern District of Texas
USDC No. 3:19-CV-2716

ORDER:

Bruce Edward Bingham, Jr., Texas prisoner # 2136709, moves for a certificate of appealability (COA) to appeal the denial of his 28 U.S.C. § 2254 application. Bingham filed the § 2254 application to challenge his jury trial conviction of intoxication manslaughter with a vehicle, for which he was sentenced to 60 years of imprisonment.

In his COA motion, Bingham contends that he received ineffective assistance when his trial counsel failed to (i) object to various comments made by the prosecution in front of the jury during argument and (ii) independently test blood evidence. He also contends that he was

G



No. 21-10612

constructively denied counsel when the prosecution failed to disclose a recording of a phone call that was played for the jury. Finally, Bingham contends that the prosecutor engaged in misconduct—or that his due process rights were violated—when the prosecution referenced Bingham’s subpoena power to the jury in connection with obtaining the results of a blood kit.

A COA may issue “if the applicant has made a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2); *see Slack v. McDaniel*, 529 U.S. 473, 484 (2000). An applicant meets this standard by showing that jurists of reason could disagree with the district court’s resolution of his constitutional claims or that the issues presented are adequate to deserve encouragement to proceed further. *Miller-El v. Cockrell*, 537 U.S. 322, 327 (2003); *Slack*, 529 U.S. at 484. Bingham has failed to make the requisite showing.

Accordingly, Bingham’s motion for a COA is DENIED.

/s/Jennifer Walker Elrod

JENNIFER WALKER ELROD
United States Circuit Judge