

APPENDIX TO PETITION

Cause 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

439TH JUDICIAL DISTRICT COURT  
ROCKWALL COUNTY, TEXAS

OFFENSE: 49.08 INTOXICATION MANSLAUGHTER 20  
W/VEHICLE F2

KAY M. MUGHLER  
DISTRICT CLERK

2016 MAR 16 PM 3:20  
BY  
DEPUTY

Agency: RPD  
Arrested  
TRN: 9126393476

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## INDICTMENT

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### 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 382<sup>nd</sup> 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 3<sup>rd</sup> day of October, 2005, in cause number F-0300111-JM in the 194<sup>th</sup> 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.

  
Sara Howell  
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  
§ 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 <sup>st</sup> Enhancement Paragraph:	N/A	Plea to 2 <sup>nd</sup> Enhancement/Habitual Paragraph:	TRUE
Findings on 1 <sup>st</sup> Enhancement Paragraph:	N/A	Findings on 2 <sup>nd</sup> 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.			
<input type="checkbox"/> 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.

*B* *SP*

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**.

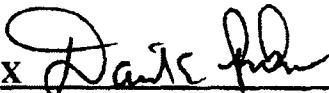
101

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

B   
102

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.

DAGC11 #412  
BAILIFF/DEPUTY SHERIFF

\*Indicate here if print other than defendant's right thumbprint is placed in box:

left thumbprint

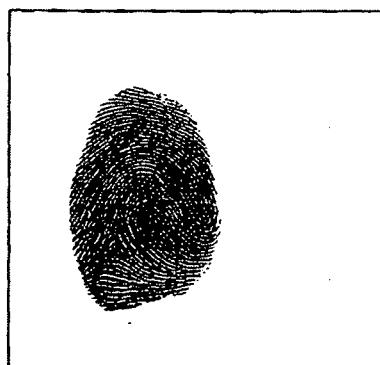
left/right index finger

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**

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

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**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*

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*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

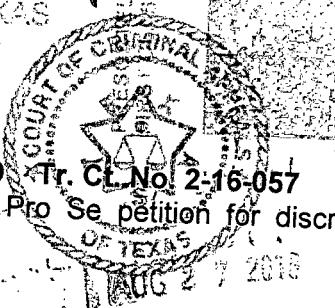
On Appeal from the 439th Judicial District  
Court, Rockwall County, Texas  
Trial Court Cause No. 2-16-057.  
Opinion delivered by Justice Schenck.  
Justices Bridges and Myers participating.

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

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

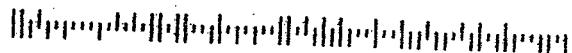
COA No. 05-17-00641-CR

PD-0318-18

Deana Williamson, Clerk

Y421  
QM  
BRUCE EDWARD BINGHAM  
COFFIELD UNIT - TDC # 2136709  
2661 FM 2054  
TENNESSEE COLONY, TX 75884

EBNAB 75884



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35  
5-31-21

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

BRUCE EDWARD BINGHAM, JR., §

Petitioner, §

v. §

Civil Action No. 3:19-CV-2716-L-BK

DIRECTOR, TEXAS DEPARTMENT  
OF CRIMINAL JUSTICE  
CORRECTIONAL INSTITUTIONS  
DIVISION,

Respondent. §

**ORDER**

On April 15, 2021, the Findings, Conclusions and Recommendation of the United States Magistrate Judge (Doc. 31) was entered. The Report recommends that the court dismiss with prejudice this habeas action, which was brought pursuant to 28 U.S.C. § 2254, and Petitioner's related claims for prosecutorial misconduct and ineffective assistance of counsel for failure to allege cognizable claims under the federal standard applicable in habeas corpus proceedings. The magistrate judge also recommended that Petitioner's request for an evidentiary hearing be denied. Petitioner filed objections to the Report (Doc. 34) in which he continues to maintain that his right to a fair trial, due process at trial, and effective assistance of counsel were violated, and he argues that he is entitled to an evidentiary hearing. Petitioner also disagrees that certain state court determinations are entitled to any deference.

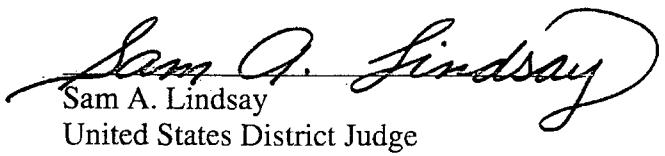
Having reviewed the pleadings, file, record in this case, and Report, and having conducted a de novo review of that portion of the Report to which objection was made, the court determines that the findings and conclusions of the magistrate judge are correct, and accepts them as those of the court. The court, therefore, **overrules** Petitioner's objections; **denies** his Petition for Writ of

*[Handwritten signatures and initials are present at the bottom right of the page.]*

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.



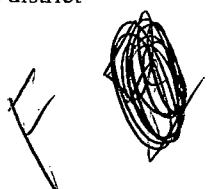
Sam A. Lindsay  
United States District Judge

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\* 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.



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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

BRUCE EDWARD BINGHAM, JR.,

§

Petitioner,

§

v.

Civil Action No. 3:19-CV-2716-L-BK

DIRECTOR, TEXAS DEPARTMENT  
OF CRIMINAL JUSTICE  
CORRECTIONAL INSTITUTIONS  
DIVISION,

§

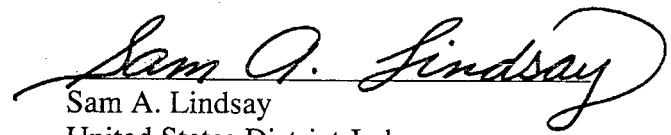
Respondent.

§

**JUDGMENT**

The court issues this judgment pursuant to its order of May 31, 2021. It is, therefore, ordered, adjudged, and decreed that this habeas action is dismissed with prejudice. The clerk of the court shall transmit a copy of this judgment and a copy of the order dated May 31, 2021, accepting the Findings, Conclusions, and Recommendation of the United States Magistrate Judge, to Petitioner.

Signed this 31st day of May, 2021.

  
Sam A. Lindsay  
United States District Judge

United States Court of Appeals  
for the Fifth Circuit

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No. 21-10612

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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.*

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

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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 [Signature]

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*