APP 1.(A)

IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NOS. WR-90,442-01 & WR-90,442-02

EX PARTE DEREK LEE CASEY, JR., Applicant

ON APPLICATIONS FOR WRITS OF HABEAS CORPUS CAUSE NOS. 12110-D & 12111-D IN THE 350TH DISTRICT COURT FROM TAYLOR COUNTY

Per curiam.

OPINION

Applicant was convicted of two charges of aggravated assault of a public servant and sentenced to twenty-five years' imprisonment in each case. Upon Applicant's motion to withdraw, the Eleventh Court of Appeals dismissed his appeal. *Casey v. State*, No. 11-17-00138-CR (Tex. App.—Eastland Dec. 14, 2017) (not designated for publication). 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 these applications for writs of habeas corpus. *Ex parte Young*, 418 S.W.2d 824, 826 (Tex. Crim. App. 1967).

Applicant contends, among other things, that his plea was involuntary because the State withheld material information from the defense, specifically that the officers did not identify

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CAUSE NOS. 12110-D & 12111-D IN THE 350TH DISTRICT COURT
FROM TAYLOR COUNTY**

***Per curiam.* KEEL, J., filed a concurring opinion, joined by HERVEY, RICHARDSON, and WALKER, JJ. KELLER, P.J., filed a dissenting opinion, joined by YEARY, SLAUGHTER, and MCCLURE, JJ. YEARY, J., filed a dissenting opinion, joined by KELLER, P.J., SLAUGHTER, and MCCLURE, JJ.**

OPINION

Applicant was convicted of two charges of aggravated assault of a public servant and sentenced to twenty-five years' imprisonment in each case. Upon Applicant's motion to withdraw, the Eleventh Court of Appeals dismissed his appeal. *Casey v. State*, No. 11-17-00138-CR (Tex. App.—Eastland Dec. 14, 2017) (not designated for publication). Applicant filed these applications for writs of habeas corpus in the county of conviction, and the district clerk forwarded them to this Court. *See* TEX. CODE CRIM. PROC. art. 11.07.

Applicant contends, among other things, that his plea was involuntary because the State

withheld material information from the defense, specifically that the officers did not identify themselves. The trial court found that the alleged "failure to identify" was either untrue or unknown to the prosecutor and that the *Brady* violation appears to be based on speculation by Applicant. Based on the record, we disagree.

The police officers testified at the punishment hearing that they did not verbally identify themselves as police officers before Applicant shot at them. Applicant's trial attorney, John Young, testified by affidavit at the habeas stage that the pretrial discovery materials indicated that the police did identify themselves before Applicant shot at them. Young told Applicant that the file showed that the officers "repeatedly" warned him that they were officers. Applicant's appellate attorney, Landon Thompson, testified by affidavit that the pretrial discovery materials did not reveal the "failure to identify" and that Applicant would not have pleaded guilty if that evidence had been disclosed before his plea. Nothing suggests that Applicant knew of the "failure to identify" evidence until the punishment hearing.

Favorable evidence was withheld from Applicant, and if it had been disclosed, he would not have pleaded guilty. The record thus substantiates Applicant's *Brady* claim. Other considerations, like the prosecution's possible ignorance of the "failure to identify" evidence, are irrelevant to Applicant's involuntary-plea claim under *Brady*. *See Harm v. State*, 183 S.W.3d 403, 406 (Tex. Crim. App. 2006).

Relief is granted. *Brady v. United States*, 397 U.S. 742 (1970). The judgments in cause numbers 12110-D & 12111-D in the District Court of Taylor County are set aside, and Applicant is remanded to the custody of the Sheriff of Taylor County to answer the charges as set out in the indictment. The trial court shall issue any necessary bench warrant within ten days from the date of

this Court's mandate.

Copies of this opinion shall be sent to the Texas Department of Criminal Justice–Correctional Institutions Division and the Board of Pardons and Paroles.

Delivered: January 27, 2021

Do not publish

APP. 5(A)

IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NOS. WR-90,442-01 & WR-90,442-02

EX PARTE DEREK LEE CASEY, JR., Applicant

ON APPLICANT'S APPLICATIONS FOR A WRIT OF HABEAS CORPUS IN CAUSE NOS. 12110-D & 12111-D FROM THE 350TH DISTRICT COURT TAYLOR COUNTY

YEARY, J., filed a dissenting opinion in which KELLER, P.J., and SLAUGHTER and MCCLURE, JJ., joined.

DISSENTING OPINION

In this post-conviction application for writ of habeas corpus, Applicant challenges his guilty pleas for two instances of aggravated assault on a public servant—here, two police officers—under Section 22.02(b)(2)(B) of the penal code. TEX. PENAL CODE § 22.02(b)(2)(B). Under that provision, an actor must "know" that his victim is a public servant. *Id.* Applicant alleges that, prior to his guilty plea, the State concealed the fact that at least one of the two police officers he shot at could testify (indeed, *did* testify at the punishment hearing that followed his guilty plea) that the officers had not announced their

APP. A. 5

status as police officers to Applicant before he fired. Today, the Court grants Applicant relief. I disagree, and I therefore dissent.

The Court's per curiam opinion seems to decide that Applicant's plea was involuntary because of a violation of the State's duty to turn over material exculpatory evidence as required by the United States Supreme Court opinion in *Brady v. Maryland*, 373 U.S. 83 (1963). To support its ruling, the Court relies on *Brady v. United States*, 397 U.S. 742 (1970), a case about the voluntariness of a guilty plea. I disagree that applicant has shown himself entitled to relief under either a theory that a *Brady* violation occurred or that his plea was involuntary.

***Brady v. Maryland*:** To the extent the Court seems to rely on *Brady v. Maryland*, that reliance is troubling. "It is unclear whether or not *Brady v. Maryland* goes so far as to render guilty pleas involuntary if the prosecution does not disclose exculpatory information at the time of the plea[.]" *Ex parte Palmberg*, 491 S.W.3d 804, 814 n.18 (Tex. Crim. App. 2016). If the Court purports to grant relief based upon *Brady v. Maryland*, it does so without either clarifying that this *Brady* does indeed apply to guilty pleas, and explaining why, or else describing how we have resolved the question of its applicability since *Palmberg*.

***Brady v. United States*:** We also observed in *Palmberg* that a guilty plea is not rendered involuntary simply because an accused does not appreciate the full dimensions of the State's case against him at the time of his plea. Quoting from *Brady v. United States*, we reiterated that there is "no requirement in the Constitution that a defendant must be permitted to disown his solemn admissions in open court that he committed the act with which he is charged simply because it later develops that the State would have had a weaker case than the defendant thought[.]" 491 S.W.3d at 808 (quoting *Brady v. United States*,

397 U.S. at 757). That principle would seem to apply here. The fact that the uniformed police officers whom Applicant shot at did not expressly announce themselves to him beforehand might be *consistent* with a theory that he did not realize they were police, but it by no means definitively *proves* that he did not know they were policemen. Other circumstances of the case amply established Applicant's knowledge and specific intent. And Applicant's failure to realize that the State's case was not quite as strong as he might have thought when he pled does not alone serve to demonstrate that his plea was not voluntary.

It turns out that Applicant actually was fully cognizant that he was firing at police officers. In fact, it seems entirely clear now that he was attempting to engage in what has become known as "suicide by cop." At the post-plea punishment hearing, he readily admitted his awareness:

> Q. Okay. You saw they were police officers?
>
> A. Yes.
>
> Q. You could see the guns in their hands so you could also see that they were police?
>
> A. Yes.
>
> * * *
>
> Q. No question it was police, right?
>
> A. Right.

He explained: "I saw my life free from depression, free from pain, free from drug addiction, in the form of those two officers with guns in their hands. * * * I fired high, trying just to provoke them to kill me."

APP. 8(A)

I do not mean to suggest that this after-the-plea testimony stands as irrefutable proof that Applicant would still have pled guilty had he been aware before he pled that one of the police officers could testify that the officers did not announce themselves. But it is at least *consistent* with the theory that Applicant would *not* have insisted on going to trial, and that he would have instead persisted in his guilty plea. The circumstantial evidence would have readily supported an inference of knowledge regardless of whether the officers had explicitly informed Applicant that they were police officers before he shot at them. That being the case, I cannot conclude that this undisclosed information was "material" in the sense that it was so dramatically exculpatory as to have likely changed Applicant's plea from guilty to not guilty. *Cf. Hill v. Lockhart*, 474 U.S. 52, 59 (1985). The Court is mistaken to conclude otherwise.

I respectfully dissent.

FILED: January 27, 2021
DO NOT PUBLISH

APP. 9(A)

IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NOS. WR-90,442-01 & WR-90,442-02

EX PARTE DEREK LEE CASEY, JR., Applicant

**ON APPLICATIONS FOR WRITS OF HABEAS CORPUS
CAUSE NOS. 12110-D & 12111-D IN THE 350TH DISTRICT COURT
FROM TAYLOR 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 these applications for writs of habeas corpus. *Ex parte Young*, 418 S.W.2d 824, 826 (Tex. Crim. App. 1967). Applicant was convicted of two charges of aggravated assault of a public servant and sentenced to twenty-five years' imprisonment in each case. Upon Applicant's motion to withdraw, the Eleventh Court of Appeals dismissed his appeal. *Casey v. State*, No. 11-17-00138-CR (Tex. App.—Eastland Dec. 14, 2017) (not designated for publication).

Applicant contends that his trial counsel rendered ineffective assistance for failing to investigate and prepare and for advising Applicant to plead guilty when Applicant did not know the

deposition, along with the trial court's supplemental findings of fact and conclusions of law, shall be forwarded to this Court within 120 days of the date of this order. Any extensions of time must be requested by the trial court and shall be obtained from this Court.

Filed: November 20, 2019
Do not publish

[APP. 11(A)]

IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NOS. WR-90,442-01 & WR-90,442-02

EX PARTE DEREK LEE CASEY, JR., Applicant

ON STATE'S MOTION FOR REHEARING APPLICATIONS FOR WRITS OF HABEAS CORPUS IN CAUSE NOS. 12110-D & 12111-D IN THE 350TH DISTRICT COURT TAYLOR COUNTY

Per curiam.

O R D E R

We have before us the State's Motion for Rehearing in these cases. We now withdraw our opinion issued on January 27, 2021, and remand the cases to the trial court for additional proceedings.

Applicant was convicted of two charges of aggravated assault of a public servant and sentenced to twenty-five years' imprisonment in each case. Upon Applicant's motion to withdraw, the Eleventh Court of Appeals dismissed his appeal. *Casey v. State*, No. 11-17-00138-CR (Tex. App.—Eastland Dec. 14, 2017) (not designated for publication).

APP. 12(A)

Applicant filed his applications for writs of habeas corpus in the county of conviction, and the district clerk forwarded them to this Court. *See* TEX. CODE CRIM. PROC. art. 11.07.

Applicant contended, among other things, that his plea was involuntary because the State withheld material information from the defense, specifically that the officers did not identify themselves. The trial court found that the alleged "failure to identify" was either untrue or unknown to the prosecutor and that the *Brady* violation appeared to be based on speculation by Applicant. Based on the record before us at the time of our review, we disagreed and granted Applicant relief.

In part, the evidence before us showed that Applicant's trial attorney, John Young, testified by affidavit at the habeas stage that the pretrial discovery materials indicated that the police did identify themselves before Applicant shot at them. In fact, Young apparently told Applicant that the file showed that the officers "repeatedly" warned him that they were officers. Applicant's appellate attorney, Landon Thompson, testified by affidavit that the pretrial discovery materials did not reveal the "failure to identify." In support of a motion for new trial, Thompson even went so far as to say that the officers "were not visibly in uniform or displaying badges at the time of the alleged assault."

Exhibits provided by the State on rehearing indicate that defense counsels' statements and our holding are not supported. Therefore, we withdraw our prior opinion and remand these cases to the trial court for additional proceedings. On remand, the State

App 13 (A)

is instructed to file its exhibits in the district court. After considering these exhibits and any additional evidence the parties wish to provide, the trial court shall make new findings of fact and conclusions of law on the claims raised in Applicant's writ applications.

The court is ordered to make these additional findings and conclusions within 60 days of the date of this order. The clerk shall thereafter immediately transmit to this Court the entire record of the proceedings.

IT IS SO ORDERED THIS THE 21ST DAY OF APRIL, 2021.

Do not publish

APP. 1(B)

FILED
AT 9:51 O'CLOCK A M
SEP 30 2019
Tammy Robinson
DISTRICT CLERK, TAYLOR COUNTY, TEXAS
DEPUTY

NO. 12110-D

STATE OF TEXAS	§	IN THE 350TH DISTRICT COURT
	§	
VS.	§	IN AND FOR
	§	
DEREK LEE CASEY, JR.	§	TAYLOR COUNTY, TEXAS

TRIAL COURT'S RESPONSE TO APPLICATION FOR WRIT OF HABEAS CORPUS SEEKING RELIEF FROM FINAL FELONY CONVICTION UNDER CODE OF CRIMINAL PROCEDURE, ARTICLE 11.07 FILED AUGUST 27, 2019

COMES NOW the Trial Court and, in response to the Application for Writ of Habeas Corpus Seeking Relief from Final Felony Conviction under Code of Criminal Procedure, Article 11.07 filed August 27, 2019, makes the following Findings of Fact:

1. Applicant's first ground alleges that his trial attorney's pending criminal charges created a conflict of interest in Applicant's case.

2. Applicant fails to specify why the pending criminal charges against his trial attorney created a conflict and none can be surmised by this Court.

3. Applicant's second ground alleges the trial court should have inquired into the nature of any potential conflict of interest between trial counsel and Applicant.

4. The trial court was aware of the criminal charges against Applicant's trial counsel and no additional inquiry was needed or appropriate.

NO Garcia Hearing

5. Applicant's third ground claims that his trial counsel was ineffective because of inadequate investigation.

6. Applicant failed to attach the "Exhibit A" to the "Discovery Compliance Acknowledgement" showing the documentary items disclosed to trial counsel. Such document is attached hereto. Such omission appears to be an attempt to mislead the reviewing Court regarding the extent of the trial attorney's investigation.

7. Applicant's fourth ground again alleges ineffective assistance of counsel for failure to "investigate and depose witnesses". Applicant fails to show how such failure, if true, was ineffective given the discovery and statements obtained by trial counsel.

8. Applicant's fifth ground again attempts to link the criminal charges then pending against (and disclosed by) his trial counsel to the effectiveness of such counsel. Applicant fails to show any connection between pending charges and the level of representation.

9. Applicant's sixth ground once again alleges ineffective assistance based on Applicant's decision to plead guilty rather than go to trial. Nothing in the "new

MCR 101

APP B. 1

evidence" proffered by the Applicant suggests that his plea of guilty was not knowingly and voluntarily entered.

10. Applicant's seventh ground claims a Brady violation. No such Brady violation is identified.

11. There are no controverted, previously unresolved facts material to the Applicant's confinement.

Signed on the 30th day of September, 2019.

Thomas M. Wheeler, Judge Presiding

APP. 3(B)

Exhibit A

Discovery File: Table of Contents

Defendant: Casey, Derek Lee Jr. 12,110-D Charge: Agg Aslt of Public Servant

Defense Attorney: Jeffrey Propst 12,111-D

Prepared by: Bill Ayres, Discovery Clerk **Date:** 5/12/2016

1. Complaint
2. APD Case Filing checklist
3. APD Case Filing form — Officer Vickers
4. APD Incident Report — Officer Risinger — 11 pages
5. APD Incident Report supplement — Officer Cowan — 2 pages
6. APD Incident Report supplement — Officer Pyeatt
7. APD Incident Report supplement — Officer Risinger
8. APD Incident Report supplement — Officer Pruitt — 2 pages
9. APD Incident Report supplement — Officer Jaimes
10. APD Incident Report supplement — Officer Vickers — 3 pages
11. APD Incident Report supplement — Officer Pipes — 2 pages
12. APD Incident Report supplement — Officer Wilson — 2 pages
13. APD Incident Report supplement — Officer Farmer
14. APD Incident Report supplement — Officer McDaniel — 3 pages
15. APD Incident Report supplement — Officer Payne
16. APD Incident Report supplement — Officer Ramirez
17. APD Incident Report supplement — Officer Merrick
18. APD Arrest affidavit
19. Consent to Search
20. APD Statement affidavit — I Casey—2 pages
21. APD Statement affidavit — B Casey —2 pages
22. APD Statement affidavit — A Lewis—2 pages
23. TxDPS Texas Rangers Witness statement — K Snell — 3 pages
24. TxDPS Texas Rangers Witness statement — D Henning — 3 pages
25. Criminal History — 24 pages
26. APD Property and Evidence document — 6 pages
27.
28. TX RANGER Report
29.
30. 4 VIDEOS / PHOTO DISC

APP B. 3

APP. 4(B)

IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NOS. WR-90,442-01 & WR-90,442-02

EX PARTE DEREK LEE CASEY, JR., Applicant

ON APPLICATIONS FOR WRITS OF HABEAS CORPUS CAUSE NOS. 12110-D & 12111-D IN THE 350TH DISTRICT COURT FROM TAYLOR COUNTY

TRIAL COURT'S SUPPLEMENTAL FINDINGS REGARDING *BRADY* ALLEGATIONS AND CREDIBILITY REGARDING JOHN YOUNG'S AFFIDAVIT RELATING TO TRIAL COURT CAUSE NOS. 12110-D & 12111-D

NOW COMES the Trial Court's Supplemental Findings Regarding *Brady* Allegations and Credibility Regarding John Young's Affidavit Relating to Trial Court Cause Nos. 12110-D & 12111-D and, pursuant to the Order dated June 17, 2020 makes the following findings of facts:

1. No depositions or hearings were conducted with regard to the *Brady* allegations made by the applicant.

2. Regarding the requested credibility finding regarding John Young's affidavit, the Court finds as follows:

   a. The Trial Court has no information indicating the statements made by John Young regarding 1) his trial strategy, 2) personal communications with the Applicant, and 3) Applicant's agreement to plea guilty are not accurate.

   b. The Trial Court can affirm, based on information gained at court hearings and entries on the docket, that discovery was conducted, an investigator hired, and assistance from a forensic psychologist was obtained.

   c. Although there is hesitation to vouch for the credibility of one who was subsequently convicted of criminal violations and lost his license to practice, nothing in the instant case leads me to disbelieve the content of Mr. Young's affidavit.

APP. 5(B)

3. Regarding the alleged *Brady* violations, Mr. Young's affidavit affirms the discovery provided to him by the state prosecutor indicated that the police officers identified themselves as such and were dressed in police uniforms. The alleged "failure to identify" was either untrue or unknown to the prosecutor. The *Brady* violation appears to be based on speculations by Applicant.

Signed on the 8th day of September, 2020.

Thomas M. Wheeler, Judge Presiding

APP B.5

APP.6(B)

NO. 12,110-D
NO. 12,111-D

EX PARTE	§	IN THE DISTRICT COURT
	§	
	§	TAYLOR COUNTY, TEXAS
	§	
DEREK LEE CASEY	§	350TH JUDICIAL DISTRICT

FINDINGS OF FACT & CONCLUSIONS OF LAW

On November 20, 2019 the Court of Criminal Appeals remanded the 11.07 writ of Applicant Derek Lee Casey back to the trial court for findings of fact and conclusions of law, finding that "Applicant contends that his trial counsel rendered ineffective assistance for failing to investigate and prepare and for advising Applicant to plead guilty when Applicant did not know the 2 people in the alleyway were police officers. Applicant also alleges the State withheld material information from the defense, specifically that the officers did not identify themselves. Applicant has alleged facts that, if true, might entitle him to relief."

On April 21, 2021, the Court of Criminal Appeals remanded the 11.07 writ of Applicant for further findings of fact and conclusions of law from this court regarding (1) whether Applicant's trial counsel rendered ineffective assistance for failing to investigate and prepare and for advising Applicant to plead guilty when Applicant did not know the two people in the alleyway were police officers; and (2) whether the State withheld material information from the defense, specifically that the officers

did not identify themselves. The court now makes these findings of facts and conclusions of law.

1. Applicant alleges that the State withheld from him information that Officer Daniel Henning and Officer Katie Snell never identified themselves on the evening in question.

2. Applicant further alleges that his trial counsel rendered ineffective assistance for failing to investigate and prepare and for advising Applicant to plead guilty when Applicant did not know the two people in the alleyway were police officers.

3. The court has reviewed the pretrial discovery provided to Applicant and the testimony of the two officers at his punishment hearing.

4. Officer Henning's statement to Texas Ranger Danny Crawford was that he heard Officer Snell say to Applicant "Show us your hands!" and "Get down on the ground!" before seeing Applicant raise the handgun he was holding, point it at them, and fire. The statement went on to say that "At this point, the armed suspect had refused to comply with multiple commands from a uniformed police officer and was now shooting at uniformed police officers."

5. Officer Henning's testimony at trial was also that Officer Snell said "Show us your hands, get down on the ground" and that he himself was in uniform.

6. The testimony of Officer Henning's at trial was identical to the statement that he gave to Texas Rangers that was found in pretrial documents.

7. Officer Snell's statement to Texas Ranger Danny Crawford that was provided to Applicant in pretrial discovery reads: "On 01/04/16, I was patrol in District Six as part of Abilene Police Department's patrol division. I was in uniform driving a marked black and white Chevrolet equipped with red and blue emergency lights."

8. Her statement goes on to say "I began yelling at Casey to let me see his hands as I observed that he had placed his hands in the pockets of his hoodie as he stepped out of the garage" before seeing him fire a gun in their direction.

9. Officer Snell's testimony at trial was that her commands to Applicant were "Let me see your hands, get down on the ground."

10. The testimony of Officer Snell at trial was identical to the statement that she gave to Texas Rangers that was found in pretrial documents.

11. Assistant District Attorney Dan Joiner has stated in an affidavit:

> "I was not aware of the affidavits of John Young or Landon Thompson in this case until the day that the Court of Criminal Appeals issued their opinions in Mr. Casey's 11.07 writs of habeas corpus. The affidavits are not correct. Neither I nor anyone in my office ever misrepresented that the officers in this case identified themselves as police officers, much less that they 'repeatedly' did so. Nothing of the sort appears anywhere in any affidavit, police reports, or any pretrial discovery. The assertion that we misrepresented evidence is wholly untrue."

The court finds this statement both credible and consistent with the pretrial discovery file that has been filed with this court and the Court of Criminal Appeals.

12. Applicant's appellate attorney Landon Thompson stated in his affidavit for a motion for new trial that:

> "At punishment, it was confirmed through the testimony of the officers that the officers had failed to identify themselves as law enforcement and were not visibly in uniform or displaying badges at the time of the alleged assault. Such testimony was not previously apparent from the offense reports and other discovery provided in the case. Such testimony constituted new evidence which was not available at the time of the trial on guilt/innocence and was not discoverable through due diligence of the Defendant because the witnesses were under the control of the state and not accessible to the defense prior to the punishment hearing. Defendant would not have entered his plea of guilty if Defendant had known that the officers' testimony would confirm these facts."

The court has reviewed the pretrial discovery file that has been filed with this court and the Court of Criminal Appeals and this statement is false.

13. Applicant's trial counsel John Young's stated in his affidavit, given three years after the events in question, that "[a]s a result of the status of my law license and the closure of my law offices, I do not have ready access to Applicant's files" and "I am relying on my personal recollections from my representation of Applicant in preparing this affidavit."

14. Applicant's trial counsel stated in his affidavit that "[t]he discovery included information that made clear the officers would testify that they did clearly and repeatedly warn applicant that they were police officers." The court has reviewed the pretrial discovery file that has been filed with this court and the Court of Criminal Appeals and this statement is false. Both officers statements in the pretrial discovery were that were in uniform displaying weapons and Applicant was given verbal commands, but they never claimed that they affirmatively stated that they police officers.

15. Applicant's own testimony in court was that he saw that they were police officers, that there was "no question" that they were police, and that he "fired high, trying just to provoke them to kill me."

16. There was no discrepancy between the pretrial materials and the officers' testimony at trial and no misrepresentations were made to Applicant. There is accordingly no *Brady* violation for failing to disclose favorable evidence.

17. Applicant cannot prevail on a claim for ineffective assistance for improperly advising him to plead guilty and failing to investigate and discover favorable material evidence for the simple reason that the favorable material evidence he asserts does not exist.

Conclusion:

For the reasons stated above this court recommends that the Court of Criminal Appeals deny habeas relief.

SIGNED on June 18, 2021.

PRESIDING JUDGE

Declaration of Inmate filing

Supreme Court of the United States

Derek Lee Casey Jr

V.

THE STATE OF TEXAS

I am an inmate confined in an institution. Today September 13, 2022, I am depositing the Writ of Certiorari in the institutions internal mail system.

I declare Under the Penalty of Perjury that the foregoing is true And Correct SEE 28 U.S.C §1746; 18 U.S.C §1621).

Derek L Casey Jr.

September 13, 2022