

APPENDIX A

NOTE TO THE SUPREME COURT: The TCCA does not cooperate with me at all, and like last time I filed a writ of habeas corpus with them, they did NOT mail me any copy of their Order denying this new writ of habeas corpus this petition arises from. So enclosed herein this Appendix A is a printout of the Order that my friend Ward Larkin mailed to me via JPay.com prisoner services, and is the ONLY copy I have of that Order to submit to this Court.

Appendix A

=====

IN THE COURT OF CRIMINAL APPEALS OF TEXAS
NO. WR-31,536-06

EX PARTE ROBERT ALAN FRATTA, Applicant
ON APPLICATION FOR WRIT OF HABEAS CORPUS
IN CAUSE NO. 1195044 IN THE 230TH DISTRICT COURT OF HARRIS COUNTY

Per curiam.
ORDER

This is a subsequent application for a writ of habeas corpus filed pursuant to the provisions of Texas Code of Criminal Procedure article 11.071, § 5.1

In June 2009, a jury convicted Applicant of the offense of capital murder for the death of his estranged wife. See TEX. PENAL CODE ANN. § 19.03(a). The jury answered the special issues submitted under Article 37.071 and the trial court, accordingly, set punishment at death. This Court affirmed Applicant's conviction and sentence on direct appeal, denied habeas relief on his initial Article 11.071 writ application, and dismissed his first subsequent Article 11.071 application as an abuse of the writ. Fratta v. State, No. AP-76,188 (Tex. Crim. App. Oct. 5, 2011) (not designated for publication); Ex parte Fratta, No. WR-31,536- 04 (Tex. Crim. App. Feb. 12, 2014) (per curiam) (not designated for publication); Ex parte Fratta, No. WR-31,536-05 (Tex. Crim. App. June 30, 2021) (per curiam) (not designated for publication).

This Court received this, Applicant's second subsequent Article 11.071 application for a writ of habeas corpus on May 4, 2022. Applicant, who is proceeding pro se, appears to make the same challenges to his capital murder conviction as he made in his first subsequent Article 11.071 application (our -05). Applicant also appears to urge us to re-open his -05 application.

We have reviewed the subsequent application and find that Applicant has failed to satisfy the requirements of Article 11.071, § 5(a). Accordingly, we dismiss the subsequent application as an abuse of the writ without considering the merits of the claims, and we decline to re-open his -05 application.

IT IS SO ORDERED THIS THE 25th DAY OF MAY, 2022.
Do Not Publish

No, I did NOT fail. I fully satisfied the requirements in this "-06" writ, and in my "-05" writ. See Appendix B

Appendix A

APPENDIX B

IN THE COURT OF CRIMINAL APPEALS
OF TEXAS

No. WR-31,536-06

EX PARTE ROBERT ALAN FRATTA

ON APPLICATION FOR WRIT OF HABEAS CORPUS
CAUSE No. 1195044 IN THE 230th DISTRICT COURT
OF HARRIS COUNTY, TEXAS

Robert Alan Fratta, Applicant
Polunsky Unit, #999189
3872 FM 350 South
Livingston, TX 77351

FILED

Marilyn Burgess
District Clerk

APR 26 2022

Time: 2:22
By [Signature]
Harris County, Texas
Deputy

Appendix B

Comes now the Applicant, Robert Alan Fratta, who as of 8/22/13 is fully pro se in all State habeas proceedings and lawfully files this application for a writ of habeas corpus.

I. Under Texas Code of Criminal Procedure (CCP) Article 11.071 Section 5, Fratta first points out there are 3 OPTIONS applicants can file under, and ONLY ONE of the 3 options needs to be satisfied - as the 3 are separated by the disjunctive word "or". On 6/30/21 this Court denied Fratta's prior attempt at an application for writ of habeas corpus as an abuse of writ for "failing to satisfy the requirements of CCP Article 11.071§5(a)", ruling it had only challenged "the legal sufficiency of the evidence." Since this Court RULED Fratta did NOT satisfy the requirements, Fratta now HAS LEGAL STANDING to file THIS application to show he now DOES satisfy the requirements. This application FULLY SATISFIES THE 2nd OPTION, or §5(a)(2) which reads: "by a preponderance of the evidence, but for a violation of the United States Constitution no rational juror could have found the applicant guilty beyond a reasonable doubt." Therefore Fratta must first show a violation of the U.S. Constitution occurred, then that as a result of the violation BEING ADDRESSED BY THIS COURT, It will find that no rational juror could have found Fratta guilty beyond a reasonable doubt based upon the evidence presented AT TRIAL.

II. This case started with a grand jury indicting Fratta on 4 counts of capital murder, ALL of which have Fratta AT THE SCENE and DIRECTLY SHOOTING AND KILLING HIS WIFE with a handgun, "and", committing a 2nd offense while in the process. The indictment is FACIALLY COMPLETE with all 4 counts ACCURATELY setting out the required elements of capital murder. However, being that the prosecutors surely told the grand jury Fratta was NOT at the crime scene and did NOT shoot and kill his wife or commit any burglary, such indicting in direct CONTRADICTION to the evidence is unlawful, prosecutor misconduct, judge misconduct, grand

jury misconduct, and unconstitutional. At trial, the State's evidence again said Fratta was NOT at the scene, did NOT shoot and kill anyone, and did NOT burglarize any building. But the jurors still convicted Fratta of capital murder under Penal Code 19.03. So firstly PC 19.03 MUST BE ANALYZED by this Court.

To constitute capital murder, the first REQUIREMENT is that a person MUST FIRST COMMIT: "MUDER as defined under section 19.02(b)(1)." That quote is immediately followed by "and", then there are 9 categories of other crimes, one of which MUST ALSO be committed by the person in addition to the murder. But BEFORE any of the "and" categories can come into play, "MUDER" MUST BE SATISFIED. PC 19.02(b)(1), as with all of 19.02, requires that a person "A" must DIRECTLY cause the death of an individual "B" by person A's OWN HANDS AND MEANS. There are NO other persons or actors cited or involved in 19.02, and there CAN'T BE. If anyone OTHER THAN person A kills person B, it LESSENS THE OFFENSE to either solicitation or conspiracy for person A because person A was ONLY Indirectly involved in person B's death. So "murder" equates to person "A" HIMSELF kills person B. Period. Since the State admits Fratta did NOT kill anyone, the REQUIREMENTS are NOT and can NOT be met for capital murder OR murder. Therefore NEITHER CAN BE APPLIED to Fratta at all. Fratta is COMPLETELY INNOCENT under PC 19.03 AND PC 19.02, should NEVER have been indicted for capital murder (or murder), and should have been ACQUITTED at trial.

But the trial court and prosecutors added a "law of parties" to the jury charge AFTER trial to intentionally CONFUSE JURORS into a guilty verdict. The law of parties (Penal Codes 7.01 and 7.02) has been MISused by prosecutors and courts to COMPLETELY DISREGARD THE REQUIREMENTS of capital murder and murder, AND, COMPLETELY DISREGARD THE INDICTMENT CHARGES. Both such usages are UNCONSTITUTIONAL. Nevertheless, 7.02(a)(2) states: "A person is criminally responsible for the offense committed by the conduct of another if: acting with intent to promote or assist the COMMISSION OF THE OFFENSE, he solicits, encourages, directs,

aids, or attempts to aid THE OTHER PERSON to COMMIT THE OFFENSE." This is another person A to person B law where there MUST be DIRECT communication, contact, AND AGREEMENT between person A and person B. There is no indirect person A to person C type of involvement, and there cannot be any kind of indirect person A to person C charge under this or ANY Texas laws. In Fratta's case, the State said Fratta is person A and that there's ONLY ONE person B; Joseph Prystash. So under this law of parties, the State HAD TO PROVE that "the other person, JOSEPH PRYSTASH (person B) DID DIRECTLY "COMMIT the offense" of murder by HIS own hands as defined by PC 19.02(b)(1), AND, that Fratta (person A) did "solicit, encourage, direct, aid, or attempt to aid PRYSTASH. But the State said Prystash did NOT commit the murder, and was not even at the scene at the time of the murder. The FACTS of Fratta's case ARE THAT SIMPLE. So even under the addition of the law of parties, Fratta is COMPLETELY INNOCENT and SHOULD HAVE BEEN ACQUITTED at trial.

Fratta just PROVED to this Court he's completely and ACTUALLY INNOCENT of capital murder and murder directly under PC 19.03 and PC 19.02, AND also under the law of parties. Yet he was convicted of capital murder and sentenced to death. This is unconstitutional and acquittal is necessary now on appeal.

III. SEVERAL U.S. Constitutional violations occurred in Fratta's trial in addition to the ones already cited above under "II". Notice (6th Amendment) AND Due Process (14th and 5th Amendments) were both violated when a law of parties was added to the 4th count of Fratt's indictment which charged him as the ONLY ACTOR to commit a capital murder. It was SPECIFICALLY that law of parties addition the jurors were INSTRUCTED to convict Fratta on, DID convict him on, then got UPHELD by the federal district court on. (See his indictment count 4). But NO law of parties can ever be added into a jury charge when a person is indicted as a SOLE party or actor. The U.S. Constitution under the 6th Amendment of the Bill of Rights demands the government properly inform a person of the accusation(s) against him with enough advanced notice so the accused can properly

prepare for his defense. Due Process of the 14th (and 5th) Amendments also demand such advanced notice, a detailed informing of the accusation(s) made, a duty for the government to prove the indictment accusation(s), and for the trial court to ensure the indictment is adhered to and that the government meet its burden of proof before the accused can be found guilty. When a person is informed in an indictment that he's being charged as the only actor of a crime such as a burglary murder, that's precisely what the government MUST PROVE and the court MUST ENSURE is proven. The government has to prove the accused himself committed a burglary and a murder. The government and/or court cannot CHANGE the indictment AFTER the trial to say some other actor(s) actually committed the burglary murder but that the accused solicited the other actor(s) to do it. That CHANGE violates Notice and Due Process, and CREATES A DIFFERENT OFFENSE than what was charged and prepared for. And when specific actors are named and charged in an indictment count, Notice and Due Process demand any law of parties addition to a jury charge must only charge THOSE specific actors. No other actors can be added. Specifically, NO UNindicted actor(s) can ever be added into a jury charge without violating Notice and Due Process AND CREATING AN UNFAIR TRIAL.

IV. Altho this Court has repeatedly ruled that the law of parties "need not be pled in the indictment", what the Court is REALLY saying is that the law of parties **WORDING** cannot be pled in the indictment count(s). To add any **WORDINGS** of PC 7.02 such as the "solicits" of (a)(2) or "conspiracy" of (b) into an indictment would **AUTOMATICALLY LESSEN THE INTENDED OFFENSE** to either PC 15.03 criminal solicitation or PC 15.02 criminal conspiracy of the **INTENDED** offense, and **ELIMINATES** the highest possible offense of capital murder from being charged in an indictment. Per PC 7.01(c), ALL "accomplices AND principals" must be charged **IN THE INDICTMENT**. Then the roles between accomplices and principals can be swapped around in the jury charge. But when only one person is charged,

he is NOT a "principal" OR an "accomplice", but rather a sole or only actor to the offense charged. Even the title: "PartIES to an Offense" is PLURAL; not singular. To add UNindicted actors into a jury charge is NOT AUTHORIZED BY THE INDICTMENT, completely CHANGES THE ELEMENTS OF THE OFFENSE INTENDED, and again, VIOLATES THE RIGHTS to be properly informed, have Due Process, and a fair trial. Furthermore, this Court's majority has ALREADY SQUARELY REJECTED Judge Keller's attempt to CLAIM it was okay to add other unindicted actors into a jury charge. See Footnote 6 in Planter v. State, 9 SW 3d 156. A jury charge AND any law of parties addition MUST FIRST BE AUTHORIZED BY THE INDICTMENT. NO RELEVANT COURT (U.S. Supreme Court, 5th Circuit or federal district court), nor this Court, has ever ruled that Notice or Due Process are NOT violated by adding a law of parties into a jury charge when a person is indicted as a sole actor.

V. The aforementioned PROVE that MULTIPLE violations of the U.S. Constitution occurred in Fratta's trial. Now Fratta must satisfy that no rational juror could have found him guilty beyond a reasonable doubt. The "by a preponderance of the evidence" requirement of CCP 11.071§5(a)(2) CAN ONLY BE DETERMINED BY A SUFFICIENCY OF THE EVIDENCE ANALYSIS because it applies SPECIFICALLY TO THE EVIDENCE PRESENTED AT TRIAL, and NOT any newly discovered or newly presented evidence. So section 5(a)(2) REQUIRES such sufficiency analysis by THIS Court.

Since the federal district court concluded Fratta was convicted on the law of parties addition to the 4th count of his indictment, and specifically upheld him on that law of parties addition, the 1st thing this Court MUST do is apply a hypothetically correct jury charge per Malik, 953 SW 2d 234, and completely OMIT that 4th count law of parties addition under its 4 prong analysis as follows:

1) Fratta's jury charge did NOT "accurately set out the law." Reading that law of parties addition on jury charge pages 5-6 this Court will clearly see the wording is an UNLAWFUL COMBINATION of PC 7.02(a)(2)'s "solicits, encourages,

directs, aids, or attempts to aid" AND 7.02(b)'s "if another felony is committed" by one of the parties. The jury charge states: "while in the course of committing or attempting to commit THE BURGLARY OF A BUILDING", Prystash AND/OR Guidry "intentionally cause[d] the death of Farah Fratta", and the 2nd paragraph on page 4 of the jury charge instructs that Fratta only had: "intent to promote or assist the commission of the offense" of BURGLARY OF A BUILDING. It's UNLAWFUL and unconstitutional to combine the elements of 2 different laws; 7.02(a) and (b), and unlawful and unconstitutional to use the words "and/or" for actors.

- 2) That law of parties addition is most certainly NOT "authorized by the indictment" as already PROVEN above in detail.
- 3) The 3rd prong isn't applicable to Fratta's jury charge.
- 4) Fratta's jury charge doesn't even come close to "adequately describing the particular offense for which he was tried"-under that 4th indictment count. The indictment wording of that 4th count charges Fratta with committing murder and burglary by himself as defined by PC 19.03(a)(2). The State KNEW NO such offense occurred BEFORE they indicted him. So he actually "was tried" for "employing" Joe Prystash to commit a murder for remuneration. The law of parties addition makes no mention of an employing element and instead focuses on a burglary the State knows was never "intended" by anyone. Apparently the shooter stepped into the open garage door a few feet. This entire count was only added to the indictment for the sole purpose of later making an unconstitutional and unlawfully worded law of parties addition to the jury charge to confuse the jurors into a guilty verdict. There is NO SUCH OFFENSE under capital murder allowing for soliciting, etc, someone to commit a burglary who then commits a murder "while in the course of" the burglary. This entire count is a total bastardization of the laws and Constitution.

Once that law of parties wording is omitted from that last count, that leaves only the wording of the indictment in the hypothetically correct jury charge. This Court will then surely agree that NO juror could possibly have convicted Fratta of committing a burglary and murder by himself as charged in the indictment since jurors were TOLD Fratta was not even at the scene and did NOT commit burglary or murder.

The 3rd count of the indictment was thrown out due to no evidence. But to complete the sufficiency analysis to fully satisfy that no rational juror could have found Fratta guilty under the other 2 jury counts either, following are the analyses of those 2 counts; each of which includes 2 parts: (1) the indictment wording, and (2) the law of parties addition. In the hypothetically correct jury charge, all the wordings of the 1st and 2nd jury charge counts ARE CORRECT and shall stand as written therein. Therefore:

- 1) Part 1 wording of count 1 has Fratta HIMSELF shooting Farah, "and" employing Prystash to be with him. The evidence said Fratta did NOT shoot Farah. Part 2 has Prystash shooting Farah. But the evidence said Prystash did NOT shoot Farah either, and wasn't even at the scene when the shooting occurred. So no juror could have found Fratta guilty under either part of the 1st count of the jury charge.
- 2) Part 2 wording of count 2 again has Fratta himself shooting Farah, "and" employing Howard Guidry to be with him. Again, the evidence said Fratta did not shoot her. Part 2 says Guidry shot Farah, and that Fratta solicited, encouraged, directed, aided, or attempted to aid him. But the evidence said Fratta did NOT solicit, etc, Guidry, as Fratta had NO communication, contact, agreement with, or knowledge of Guidry. So again, no juror could have found Fratta guilty under either part of the 2nd count of the jury charge, which is WHY the prosecutors directed the jurors to convict Fratta under the law

of parties addition to the burglary murder (4th indictment count) in their closing arguments, and WHY the federal judge used only that addition to uphold Fratta's conviction.

Since no other unindicted person(s) can be added into the hypothetically correct jury charge, that concludes the analysis and proves the evidence was insufficient for any juror to have found Fratta guilty.

VI. CCP 11.071§5(a)(2) is considered the "Innocence-Gateway Exception". Fratta has shown his innocence under State AND federal law assessments because even under the Jackson v. Virginia, 443 U.S. 307 "essential elements" analysis, this Court must omit that law of parties addition to the last count and rule Fratta innocent as charged in his indictment.

VII. Fratta has EASILY SATISFIED THE REQUIREMENTS of CCP 11.071§5(a)(2) which is ALL he's required to do for ACCEPTANCE AND RELIEF. First Fratta showed MULTIPLE "violation[s] of the United States Constitution" occurred at trial. Then Fratta showed that "no rational juror could have found him guilty beyond a reasonable doubt" based upon a "preponderance of the evidence" presented at trial, which in itself equates to a legal insufficiency of the evidence. Fratta has also proven the evidence was insufficient under the Jackson v. Virginia standard - which ruled such is unconstitutional. The remedy MANDATED for relief now due to this required sufficiency of the evidence analysis per Section 5(a)(2), is a RULING OF ACQUITTAL AND IMMEDIATE RELEASE from this unlawful confinement per this Court's rulings in Gollihar, 46 SW 3d 243; Curry, 30 SW 3d 394; and Planter, 9 SW 3d 156, et al, and barred from being reindicted or tried for capital murder or any offense related to his wife's death due to the 5th Amendment's protection against double jeopardy.

Submitted by,



Robert Alan Fratta, Applicant

Polunsky Unit, #999189

3872 FM 350 South

Livingston, TX 77351

Signed: 4/16/22

APPENDIX C

RETRAD - IV

D

THE STATE OF TEXAS
VS.

ROBERT ALAN FRATTA

SPN: 01456938
DOB: WM 02/22/1957
DATE PREPARED: 12/03/2008

D.A. LOG NUMBER: 1461156
CJIS TRACKING NO.: 9001859518-D001
BY: CGM DA NO: 050951500
AGENCY: HCDA
O/R NO: 9411092168
ARREST DATE: 04/21/1995

NCIC CODE: 0906 10

RELATED CASES: H. GUIDRY, J. PRYSTASH

FELONY CHARGE: CAPITAL MURDER
CAUSE NO: 1195044
HARRIS COUNTY DISTRICT COURT NO: 230
FIRST SETTING DATE:

BAIL: \$
PRIOR CAUSE NO: 712409

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

The duly organized Grand Jury of Harris County, Texas, presents in the District Court of Harris County, Texas, that in Harris County, Texas, ~~ROBERT ALAN FRATTA~~, hereafter styled the Defendant, heretofore on or about NOVEMBER 9, 1994, did then and there unlawfully intentionally and knowingly cause the death of FARAH FRATTA, hereafter styled the Complainant, by shooting the Complainant with a deadly weapon, namely, a firearm, and the Defendant did employ JOSEPH PRYSTASH to commit the murder for remuneration and the promise of remuneration, namely, a motor vehicle.

It is further presented that in Harris County, Texas, ~~ROBERT ALAN FRATTA~~, hereafter styled the Defendant, heretofore on or about NOVEMBER 9, 1994, did then and there unlawfully, intentionally and knowingly cause the death of FARAH FRATTA, hereafter styled the Complainant, by shooting the Complainant with a deadly weapon, namely, a firearm, and the Defendant did employ HOWARD GUIDRY to commit the murder for remuneration and the promise of remuneration, namely, money.

It is further presented that in Harris County, Texas, ~~ROBERT ALAN FRATTA~~, hereafter styled the Defendant, on or about NOVEMBER 9, 1994, did then and there unlawfully, intentionally and knowingly cause the death of FARAH FRATTA, hereafter styled the Complainant, by shooting the Complainant with a deadly weapon, namely, a firearm, and the Defendant did employ HOWARD GUIDRY to commit the murder for remuneration and the promise of remuneration, namely, a firearm.

It is further presented that in Harris County, Texas, ROBERT ALAN FRATTA, hereafter styled the Defendant, on or about NOVEMBER 9, 1994, did then and there unlawfully while in the course of committing and attempting to commit the burglary of a building owned by FARAH FRATTA, intentionally cause the death of FARAH FRATTA by shooting the Complainant with a deadly weapon, namely, a firearm.

(★)

→ This is the Count Fratta was convicted (+ upheld) on. As you can see, he is the ONLY actor charged, + he argues No Law of parties can be added to this count. Yet it was. (See Jury Charge pages 5+6 in Appendix D).

AGAINST THE PEACE AND DIGNITY OF THE STATE.

FILED
Loren Jackson
District Clerk

DEC 11 2008

Time: _____
By _____
Harris County, Texas
Deputy

FOREMAN

263RD

John Van Osdel

FOREMAN OF THE GRAND JURY

RECORDER'S MEMORANDUM

INDICTMENT

This instrument is of poor quality at the time of imaging

: 000002

IMAGED

Appendix C

APPENDIX D

Indictment
Count 1
(continued)

Prystash to commit the murder for remuneration or the promise of remuneration, namely, a motor vehicle, and that the defendant, Robert Alan Fratta, with the intent to promote or assist the commission of the offense, if any, solicited, encouraged, directed, aided or attempted to aid Joseph Andrew Prystash to commit the offense, if he did; or

Indictment
Count 2

(Indictment
Count 3 was
thrown out for
no evidence)

If you find from the evidence beyond a reasonable doubt that in Harris County, Texas, on or about the 9th day of November, 1994, the defendant, Robert Alan Fratta, did then and there unlawfully, intentionally or knowingly cause the death of Farah Fratta, by shooting Farah Fratta with a deadly weapon, namely, a firearm, and the defendant did employ Howard Guidry to commit the murder for remuneration or the promise of remuneration, namely, money; or if you find from the evidence beyond a reasonable doubt that in Harris County, Texas, on or about the 9th day of November, 1994, Howard Guidry did then and there unlawfully, intentionally or knowingly cause the death of Farah Fratta, by shooting Farah Fratta with a deadly weapon, namely, a firearm, and the defendant did employ Howard Guidry to commit the murder for remuneration or the promise of remuneration, namely, money, and that the defendant, Robert Alan Fratta, with the intent to promote or assist the commission of the offense, if any, solicited, encouraged, directed, aided or attempted to aid Howard Guidry to commit the offense, if he did; or

Indictment
Count 4

Unconstitutional
(+ unlawful)
Law of Parties
addition

If you find from the evidence beyond a reasonable doubt that in Harris County, Texas, on or about the 9th day of November, 1994, the defendant, Robert Alan Fratta, did then and there unlawfully, while in the course of committing or attempting to commit the burglary of a building owned by Farah Fratta, intentionally cause the death of Farah Fratta by shooting Farah Fratta with a deadly weapon, namely, a firearm; or if you find from the evidence beyond a reasonable doubt that in Harris County, Texas, on or about the 9th day of November, 1994, Joseph Andrew Prystash and/or Howard Guidry did then and there unlawfully, while in the course of committing or attempting to commit the burglary of a building owned by Farah Fratta,

5

00561

Appendix D

Law of Parties
addition
(continued)

intentionally cause the death of Farah Fratta by shooting Farah Fratta with a deadly weapon, namely, a firearm, and that the defendant, Robert Alan Fratta, with the intent to promote or assist the commission of the offense, if any, solicited, encouraged, directed, aided or attempted to aid Joseph Andrew Prystash and/or Howard Guidry to commit the offense, if he did, then you will find the defendant guilty of capital murder, as charged in the indictment.

Unless you so find from the evidence beyond a reasonable doubt, or if you have a reasonable doubt thereof, you will acquit the defendant of capital murder and next consider whether the defendant is guilty of the lesser offense of murder.

You are instructed that you may consider all relevant facts and circumstances surrounding the death, if any, 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 offense, if any.

Therefore, if you find from the evidence beyond a reasonable doubt that on or about the 9th day of November, 1994, in Harris County, Texas, the defendant, Robert Alan Fratta, did then and there unlawfully, intentionally or knowingly cause the death of Farah Fratta, by shooting Farah Fratta with a deadly weapon, namely, a firearm; or if you find from the evidence beyond a reasonable doubt that on or about the 9th day of November, 1994, in Harris County, Texas, Joseph Andrew Prystash and/or Howard Guidry, did then and there unlawfully, intentionally or knowingly cause the death of Farah Fratta, by shooting Farah Fratta with a deadly weapon, namely, a firearm, and that the defendant, Robert Alan Fratta, with the intent to promote or assist the commission of the offense, if any, solicited, encouraged, directed, aided or attempted to aid Joseph Andrew Prystash and/or Howard Guidry to commit the offense, if he did, then you will find the defendant guilty of murder.

6

00562