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## **APPENDIX**

EXHIBIT 1

CAUSE NO. 35498B (No. 03-10-00551-CR in the 3<sup>rd</sup> Court of Appeals)

THE STATE OF TEXAS

v.

STEVEN MICHAEL BACKSTROM

IN THE DISTRICT COURT OF

BURNET COUNTY, TEXAS

33<sup>RD</sup> JUDICIAL DISTRICT

**TRIAL COURT'S FINDINGS OF FACT**

**ON DEFENDANT'S APPLICATION FOR WRIT OF HABEAS CORPUS (CCP 11.07(D))**

Came on to be considered on September 13, 2012, Defendant's Application for post-conviction Writ of Habeas Corpus filed by Defendant, STEVEN MICHAEL BACKSTROM, pursuant to Art. 11.07(d) of the Texas Code of Criminal Procedure.

Appearances: Representing the State was Gary Bunyard (by the State's Answer) and Defendant was not represented. The matter was determined based upon Defendant's Application, the State's Answer, and the Affidavit of trial counsel as ordered by the trial court in its Order of March 12, 2012.

Findings: After hearing the evidence and arguments of counsel, the Court makes the following findings:

- 1 Trial counsel timely responded to the trial court Order but the Affidavit was laid in the Clerk's file and not then brought to the attention of the trial court.
- 2 As to Applicant's allegations regarding trial counsel: The Court finds each of the allegations to be UNFOUNDED.
- 3 As to Applicant's allegations regarding the State and exculpatory evidence: The Court finds that allegation to be UNFOUNDED.
- 4 The Court finds that the Application, taken as a whole, is UNFOUNDED.

Recommendation: The Court respectfully recommends to the appellate court that the Application be in all respects DENIED.

It is ORDERED that:



- I. The Clerk of the Court, pursuant to Art. 11.07(d) of the Code of Criminal Procedure, shall immediately transmit to the Court of Appeals for the Third District of Texas, under one cover, the application for Writ of Habeas Corpus, any answers filed, any motions filed, transcripts of all depositions and hearings, any affidavits, and any other matters such as official records used by the court in resolving issues of fact.
- II. Such record shall expressly include:
- A. This Order.
  - B. The State's Answer (with attachments).
  - C. Attorney Shell's Affidavit.
  - D. Applicant's "Addendum II" filed June 7, 2012.
  - E. Applicant's "Evidence in Support ..." document of same date but excluding the numerous emails and notes attached thereto which are redundant and largely irrelevant in determination of the matter.
- III. A copy of this Order shall be mailed by the Clerk to the District Attorney's office and to trial counsel as well as Applicant.

Signed on

9/13/12.

  
\_\_\_\_\_  
Guilford L. Jones, III  
Judge Presiding

bu35498b backstrom 1107 order

EXHIBIT 2

Cause # 35498B

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

OFFICIAL BUSINESS

STATE OF TEXAS

RE: Writ No. 35498B  
STYLE: Backs  
TRIAL CT NO: 25498B  
11/21/2012

PENALTY FOR  
PRIVATE USE



02 1M \$ 00.32<sup>00</sup>  
0004288372 NOV 20 2012  
MAILED FROM ZIP CODE 78701

This is to advise that the Court has denied without written order the application for writ of habeas corpus on the findings of the trial court without a hearing.

Louise Pearson, Clerk

NOV 28 2012

District Clerk Burnet County  
1701 E. Polk  
Suite 90  
Burnet, TX 78611



EXHIBIT 3



To Whom it may concern,

I am Sheila Lucas, Steven Backstrom's ex wife. I was at the trial the entire week. On the day of sentencing, Jarred (Eddie's assistant attorney) came to us and stated that Steven (Mike as I call him) was going to confess to everything. He stated Eddie instructed Mike to do so due to he could get mercy from the jury and probably only get probation. I was shocked and disappointed that he was going to do this because I know for a fact that some of what was said at that trial did not occur. I was involved in my boy's lives and Mike was my friend. During the trial I was in courtroom for part of it but then Eddie decided he was going to use me as a witness so the last couple of days I was not allowed in courtroom any longer. Eddie ended up not calling any witnesses at all. The Saturday of the trial, Eddie went to the judge with the DA and stated that he needed to wrap this up because he had another trial starting Monday and he needed to be done with this.

Thank you,

Sheila Lucas

*Sheila Lucas 09/11/16*

**JURAT WITH AFFIANT STATEMENT**

State of Texas } ss.  
County of Harris

- ☒ See Attached Document (Notary to cross out lines 1-7 below)  
☐ See Statement Below (Lines 1-7 to be completed only by document signer[s], not Notary)

1 \_\_\_\_\_  
2 \_\_\_\_\_  
3 \_\_\_\_\_  
4 \_\_\_\_\_  
5 \_\_\_\_\_  
6 \_\_\_\_\_  
7 \_\_\_\_\_  
Signature of Document Signer No. 1 \_\_\_\_\_

Signature of Document Signer No. 2 (if any) \_\_\_\_\_

Subscribed and sworn to (or affirmed) before me

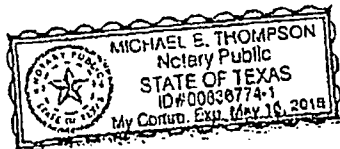
this 11 day of September, 2016, by  
Date Month Year

SHILIN LUCAS  
Name of Signer No. 1

Name of Signer No. 2 (if any) \_\_\_\_\_

[Signature]  
Signature of Notary Public

Commission Expires 5-15-2018  
Any Other Required Information  
(Residence, Expiration Date, etc.)



Place Notary Seal/Stamp Above

**OPTIONAL**

This section is required for notarizations performed in Arizona but is optional in other states. Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

**Description of Attached Document**

Title or Type of Document: Statement re STEVEN BLACKSTON

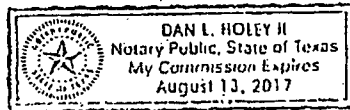
Document Date: 9/16/16 Number of Pages: 1

Signer(s) Other Than Named Above: None

### Affidavit

Under penalty of perjury, I, Kristopher N. Backstrom, aver to the facts and statements herein.

On the day my father, Steven Micheal Backstrom, was found guilty in court for the charges of burglary of a habitation with intent to commit indecency with a minor and aggravated sexual assault of a minor, he was told by his attorney, Eddie Shell, to admit to committing these crimes in order to get probation instead of prison time. I know this to be true because Eddie Shell's assistant attorney Jarred came into the lobby of the courtroom just before my father took the stand to inform my brother, Kyle Backstrom, my mother, Sheila Lucas, and myself that he would be admitting to these things because he was told this would be the only way to get the minimal sentencing from the jury.



*Dan L. Holey II*  
9/7/16

Respectfully and truthfully submitted,

*Kristopher N. Backstrom*  
Kristopher N. Backstrom

1330 Park Ave.  
Waco, TX, 76706  
254-523-5788


EXHIBIT 4

Ex 4

Filed

FILED

21 SEP -2 PM 4:25

CLERK U.S. DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
BY 

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

STEVEN MICHAEL BACKSTROM,  
\_\_\_\_ PETITIONER,

V.

BOBBY LUMPKIN,  
RESPONDENT.

§  
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§

A-13-CV-037-LY

**ORDER**

Before the court is Petitioner Steven Michael Backstrom's "Motion to Set Aside Judgment Pursuant to Fed. R. Civ. P. Rule 60(b)(6)." Petitioner contends the judgment was obtained by fraud because trial counsel submitted a false affidavit during Petitioner's state *habeas corpus* proceedings. He asserts had the state appointed counsel for his state *habeas corpus* proceeding, there is a reasonable probability that he would have recognized the attorney fraud and the state proceedings would have ended differently. After consideration of the motion, it is dismissed without prejudice for want of jurisdiction.

Petitioner filed his original *habeas corpus* petition in the instant case. He later voluntarily dismissed the petition, so he could return to state court.

Petitioner filed a second *habeas corpus* petition in Cause No. A-16-CV-395-LY. On September 13, 2016, the court dismissed the petition with prejudice as time-barred. The Fifth Circuit Court of Appeals denied Petitioner a certificate of appealability on June 15, 2017, and the Supreme Court denied Petitioner's petition for writ of *certiorari* on October 2, 2017. Petitioner subsequently filed a motion to set aside the judgment, which the court denied on November 1, 2017.

On August 14, 2018, Petitioner filed a motion for authorization to file a successive petition. The Fifth Circuit Court of Appeals denied Petitioner's motion. *See In re: Steven Michael Backstrom*, No. 18-50663 (5th Cir. Sept. 18, 2018).

Petitioner next filed a "Motion for 60(b) Motion" in Cause No. A-21-CV-574-LY. On June 28, 2021, the court dismissed the motion without prejudice for want of jurisdiction because Petitioner's motion was an attempt at filing a successive *habeas corpus* petition. The court explained Petitioner needed authorization from the Fifth Circuit Court of Appeals before he could file a successive *habeas corpus* petition. Petitioner appealed the dismissal but later dismissed his appeal.

Petitioner's current motion fails for the same reason as his previous motion. Petitioner is attempting to use fraud allegations as a means to reopen his *habeas corpus* proceedings and relitigate previously asserted claims, which this court dismissed as time-barred in Cause No. A-16-CV-395-LY. Petitioner is reminded, if he wishes to pursue a successive petition for writ of *habeas corpus* in federal court, he must first obtain leave to file a successive Section 2254 petition. *See* 28 U.S.C. § 2244(b)(3)(A); § 2254. Because § 2244(b)(3)(A) "acts as a jurisdictional bar to the district court's asserting jurisdiction over any successive habeas petition until [the Fifth Circuit] has granted the petitioner permission to file one," the district court is without jurisdiction to consider a successive petition. *United States v. Key*, 205 F.3d 773, 774 (5th Cir. 2000).

It is **ORDERED** that the "Motion to Set Aside Judgment Pursuant to Fed. R. Civ. P. Rule 60(b)(6)," filed by Petitioner on August 30, 2021, is **DISMISSED WITHOUT PREJUDICE** for want of jurisdiction.

It is further **ORDERED** that a certificate of appealability is **DENIED**.

SIGNED this the 2nd day of September 2021.

  
\_\_\_\_\_  
LEE YEAKEL

UNITED STATES DISTRICT JUDGE

**Additional material  
from this filing is  
available in the  
Clerk's Office.**