

NO: \_\_\_\_\_

IN THE  
SUPREME COURT OF THE UNITED STATES  
OFFICE OF THE CLERK  
WASHINGTON, D.C. 20543-0001  
" PETITIONER'S" RODOLFO VELA SR.,  
RODOLFO VELA JR., AND ANNA V. VELA

V.

RESPONDENT'S

MIKE COMPTON, FORMER SHERIFF; TOM STEPHENS, FORMER  
DEPUTY SHERIFF JONI L. McCLAIN, MEDICAL DOCTOR; JOHN  
ROANE, JUSTICE OF THE PEACE; JANELLE HAVERKAMP, DISTRICT  
ATTORNEY; MARK TACKETT, STATE TROOPER; S. NORIE, DEPUTY  
SHERIFF; JOSEPH R. SHIRES, DEPUTY SHERIFF; JUDD JONES  
DEPUTY SHERIFF; AND AaRON CARNEY, CHIEF INVESTIGATOR  
FOR THE DISTRICT ATTORNEY;

PETITION FOR A WRIT OF CERTIORARI,

Petition for a writ of Certiorari, from the United States Court of Appeals for The Fifth  
Circuit Cause No: 24-40302 and U.S.D.C..for the Eastern District of Texas, Sherman  
Division, No.4:23-cv-00145-ALM-CAN.

Pro Se, Rodolfo Vela Sr. et. al., 1001 Coffeyville Tr. Grand Prairie,  
Texas 75052. jackofvela@yahoo. com cell phone 972-639-2487

## **IDENTITY OF PARTY AND COUNSEL**

### **PETITIONER'S**

**Rodolfo Vela Sr. Rodolfo Vela Jr. and Anna Vela**

**Rodolfo Vela Sr. et,al., Pro Se 1001 Coffeyvillr Tr. Grand Prairie, Texas  
75052, jackofvela@yahoo.com cell phone 972-639-2487.,**

### **RESPONDENT'S**

**Mike Compton, former sheriff; Tom Stephens, former Deputy Sheriff; Joni L. McClain, Medical Doctor; John Roane Justice of the Peace; Janelle Haverkamp, District Attorney; Mark Tackett, State Trooper; S. Norie, Deputy Sheriff; Joseph R. Shires, Deputy Sheriff; Judd Jones, Deputy Sheriff; and Aaron Carney, Chief investigator for the District Attorney; total Ten ( 10 ) Respondents**

**The Counsel or the Attorney for eight ( 8 ) Respondent's up above name, Christopher A. klement for the Respondent's Texas Bar No. 24090212 Fee. Smith & Sharp LLP Three Galleria Tower, 13155 Noel Road, Suite 1000, Dallas, Texas 75240 Telephone 972-934-9100 facsimile 972-934-9200, Attorney ( 8 ) Respondent's above.**

**one ( 1 ) Counsel or Attorney Christopher Lee Lindsey Attorney Assistant General Attorney in charge State Bar No. 24065628 P.O. BOX 12548 Capitol Station, Austin , Texas 78711 Telephone 512-463-2080, fax. 512-370-9814. I will represending "Mark Tackett" State Trooper, and "Joni L. McClain" Medical Doctor 1200 Main St. Apt 2102 Dallas, Texas 75202, and Jeffrey J. Barnard are dismissed without Prejudice.**

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- 3. Witkin, Caliornia Procedure, Jurisdiction++++++**  
**351.,PP 841-43 ( m 4th ed 1996 )++++++9.**

**JURISDICTION,**

**Jurisdiction is Asserted Pursuant to 42 U.S.C.A. \$ 1983 and  
U.S.C.A. \$ 1981 PRESENTED**

**Previous Lawsuits and Adinistrative Relief**

**The Petitioner's bring Previous to proof a point to the United States Court of Appeals Fifth Circuit, on there Judgment,Opinion case details Vela V. Compton No: 24-40302 (5th Cir. 11/26/2024.**

**Case No: 3-11-CV-0685-M-BD U.S.D. C. Northern District of Texas Dallas Division, Plaintiff's Rodolfo and Anna Vela, V. Bradley M.Manning et.al., read the facts: this case is on Arturo Vela "Tippy"and this Petition was filed June 11,2011 and Arturo Vela "Tippy" death was July 05,2001 and that (10 ) years that The Petitioners Pro Se Rodolfo Vela Sr. did not know how " Tippy" Die , Until we went again on June 11.2019 went to sheriff department to "reopen cold case", and Support facts: Respondent's Joseph R. Shires he provide a thorough investigation in the death, and went to Aaron Carney on date October 15,2020, and hire The Blackfish September 2,2021 to Febuary 15,2022, and on Febuary 9,2023 filed the complaint that "one years" The petitioners object to the recommendation that the \$ 1983 claims, are time barred by a 2-year statute of limitation.**

**Also see Exhibit C. # The United States Department of Justice. was type by Richard Sambrano, on date March 19,2003, time 1:01 P.M.about Janelle Haverkamp and Mike Compton et. al., former Sheriff's Janelle is on your opinion case details , Also Exhibit J #**

**To: The Honorable Presiding Justice, and to the Honorable Associate Justices of the Court of Appeals, of State of United States Court of Appeals for the Fifth Circuit, New Orleans, La, 70130 and the Honorable Judges, Supreme Court of United States.**

**The Reason for granting the Petition Pro Se bring before this court to prove that the United States Court of Appeals fifth Circuit, on their final judgment “agreeing” with the Eastern Court that my case was filed after the Statute of Limitation Expired, Until we went again on June 11,2019 went to the Sheriff Department to “reopen the “cold Case” Respondents Joseph R. Shires Criminals’ Deputy Sheriff provided a thorough investigation in the death, and Then went to Aaron Carney chief Investigator for the District Attorney On date October 15,2020 at the same time, We hire “Blackfish Intelligence” to investigate the “case” on date “September 2,2021” he conclude the investigation on date February 15, 2022, it was on that day when I saw the “Photographs” from the Medical Examiner of my “son” Arturo Vela “Tippy “and notes, from the scene on date July 05,2001 , my injuries arose as a Result of the Defendants’ “Negligence” from “Tom Stephens” badges 105 # who was the Criminal Investigator at the scene, the day of the of scene was July 5,2001, the petitioners Pro Se filed the petition with Exhibit “Ex parte Evidence that included the results of the private investigator, Blackfish Intelligence that the Petitioners hire on “September 2,2021’.**

argument will be on "February 2,2025" that will give everybody ,to think, and bring Justice from the Court , United States Court of Appeals, for the Fifth Circuit,Case No.. 24-40302.just read this motion docket 43 #

The Petitioner was waiting a response from docket 43 # and on Date December 3,2024 received Docket 49 # unpublished opinion filed 24-40302 Affirmed] Judge EGJ, Judge JEG, Judge ASO. Mandate issue date is 12/18/2024, ( 24-40302] ( CMC) Entered 11/26/2024 time 03:50 pm) with a Memorandum of Counsel or Parties listed below here is the "First error" from the Office of the Clerk, the counsel yes they received by ( Electronic ) But the Petitioner did not received because the Clerk mail the Pro Se Rodolfo Vela Sr. by U.S. Mail on date 11/27/2024 and received it on "date 12/03/2024"

The Petitioner Pro Se Rodolfo Vela Sr.answer the Petitions for Rehearing, and the Petitions Rehearing En-Bans, both on date 12/18/2024, and send its by 'E-Mail" to her office of the Clerk, time 9:15 AM. The petitions for rehearing En-Banc, and the Petition before Judge, at time 9:24 and to the "Counsel" Christopher A. Klement the petition for judge, December18,2024 wed. at 9:28 AM.and petition for rehearing, wed.Dec.18 at 9:27 and on Christopher Lee.Lindsey Petition for rehearing, wed at 9:29 and on Petition for Judge wed. Dec. 18 at 9:30 " what the Petitioner wanted to "established",that the Clerk office make an error or mistake,when she makes a decision without reference to any guiding Rules or Principles: Garcia V.Martinez, 988 S.W.2d 219,222, ( Tex. 1999) The Clerk obviate dispose the Two Motion

that the Petitioner's filed with U.S.Court of Appeals fifth Circuit, and its was on timely on date 12/18/2024 in the morning 9:30 A.M. (see 12/18/2024 (Dkt 52 the Mandate 24-40203 [ entered 12/18/2024 time 04:07 P.M.and the Petitioner's Filed were there at the same day 12/18/2024, But on the morning at 930 A.M".and then the File you send the memorandum date 11/26/2024 but your office mail its on 11/27/2024 and the Petitioner received it on date 12/03/2024 and answer to your office 12/18/2024 and that 11 day that the Petitioner answer to your clerk office, and than send a motion to continuance Supplemental Brief 12/26/2024 and that (5) day that Petition answer to your office of the clerk, The pro se Petitions have three pending pleading waiting for the Panel to answer,

The Petitioner Pro Se when he send the motion to continue Supplemental Brief with Exhibit A,B,C, to proof that he did answer to panel, But The office of The Clerk "reversal error"on the ground that you filed 12/18/2024 Mandate issued, date satisfied [ 24-40302 ] [cmc ] entered 12/18/2024 time 04:07 P.M. knowing that the The Petitioner had E-mail his two filed name Petition for rehearing En-banic and petition for rehearing before Judge per curiam.at 930 A.M. on the same date on 12/18/2024 petitioner's filed the petition / application for writ of Mandate,in the Superior Court of the State of Louisiana County see Exhibit A,B,C. attached with motion requested that the Superior Court set a hearing on the the matter, The Petitioner has no administrative remedy available to him to comply the Superior Court to set this matter for "hearing"

petitioner has no plan speedy or adequate remedy in ordinary course of the law to comply the Superior Court to set this matter for a hearing mandate pursuant to code of Civil Procedure section 1085 is the appropriate remedy for failure of Superior COURT TO SET THE MATTER FOR HEARING SEE E.G., People v. Superior Court ( stein ) 239 cal App. 2d 99,102 ( 1965). 2 witkin ,California Procedure, Jurisdiction § 351, pp. 841-43 ( M 4th ed 1996) wherefore Petitioner prays that 1. A peremptory writ of mandate issue from this Court directing the Superior Court to immediately set the matter for hearing or that 2. An alternative writ of mandate issue from this court directing the Superior Court immediately set the matter for hearing or in the alternative to show cause before this court at a specified time and place why the relief pray for should not be granted,

before Jolly, Graves and Oldham, Circuit Judges "JUDGMENT" DATE ON 11/26/2024, "AFFIRMED" with the Defendants' Mike Compton Sheriff Joni L. McClain Medical Doctor and Tom Stephens, Let the Appellants or Petitioner remind the United States Court of Appeals Fifth Circuit that the Petitioner's on date 07/24/2024 docket 25 P. 8 The black fish Report contained "Photos " and the Medical Examiner's notes from "Tippy" autopsy indicating that the true cause of Tippy death was concealment (1) The act of refraining from disclosure;, an act by which one prevents or hinders, the discovery of something ; "cover up"and cover up against the law, the act of removing from sight or notice; hiding- "conceal" on the same brief date 07/24/2024 (Docket 25 # P. 24,) let me remind the

United States Court of Appeals Fifth Circuit The ( 10 ) Respondent's Roll become "Accessories" its not hard to understand what the Pro se Rodolfo Vela Sr trying to say here on this brief, they did not arrest nobody, The question why, because they were involve with the "suspects" with drug for years, until the suspected went kill "Tippy" and all are Scatter all over state of Texas. and black fish Intelligence provide the Petitioner's where suspect are living and now let go the Petitioner's Reply Brief on date 09/04/2024 (docket 28 # P. 5 ) The Petitioner's sue if goverment official and State Official Violated ours constitutional rights , its not just a matter of doing rights by the Petitioner's , its also a matter of holding the goverment, and the state accountable , it's a way to take a stand against "injustice" and from The United States Magistrate Judge.,

The Petitioner's Pro Se docket 33 # He was born deaf and he found his brother death on the shower with hot water "running" to his body on date July 05,2001, and the sheriff department "were not" doing there job, and what the first thing a police or a "sheriff" deputy do, The first think they do is put a yellow line around the house, and a sign that say keep out ?. and the Petitioner's Rodolfo Vela Jr. he is deaf, and mute, and if he talk they don't understand him, and told him with "sign" to stay out ? here is "error" the first one, from the Tom Stephens Criminal Investigator, and took the "photos" from the decease, and that way the United State Supreme Court can understand they abuse the Deaf Petitioner's Rodolfo Vela Jr. under federal law the American with Disabilities Act, for example it cover

Federal ,State ,County ,City or Town Governments The Petitioner's will explain what they did wrong ever Law enforcement, under color state law [1.] Tom Stephens Criminal Investigator took the "photos" on the scene date July 05,2001 inside the resident 183 Pioneer Trail Valley View,Texas Cooke County, and "never show us the Photos" of Arturo Vela "Tippy" how he "die." and send then to the ( Medical Examiner office) and there were there for 22 years "hide" {2} John Roane Justice of Peace he send the Autopsy that Juan Luis Zomora call homicide, for "determination", and fax it to Medical Examiner office to hide the Autopsy for 22 years; (3) Judd Jones Deputy Sheriff was with Tom Stephens criminal investigator, make in inventory, from the home of the decease Arturo Vela "Tippy" and also know about the "photos", {4} S. Norie he cover up with paper work here are "four" Respondent's what they did wrong on that date of the "Murder" did not "arrested no body" and it became "Accessories" after the fact are those who "knowing" a "crime has been committed" , assist the principal to avoid capture or arrest or to "escape" But its true because Mike Compton et.al. they "did" what he told then to do,

#### **STATEMENT OF THE CASE**

**1. Joni L. McClain M.D. is a citizen of the state of Texas and was employed at the time of the claims as a Medical Examiner for the County of Dallas,Texas at the time the claims alleged in this complaint arose, the the Appellees or Respondent's was acting under Color of State law. That at the time of the claim, the Respondent's was responsible for the duties of a State Medical**

**Examiner which duties included the Examination, and autopsies of Death Victims, and rulings for "cause of death"**

**1. (a) count one that respondent's Joni L. McClain, the Medical Examiner for the County of Dallas, Texas, jointly conspired with Cooke County officials to speedily rule the Death of Arturo Vela as an "accident" without benefit of proper investigation or hearing for determinnation.**

**1.{ b) Supporting facts: Joni L. McClain M.D. On July 6,2001 ruled his Death "accidental" and the second autopsy was call "homicide", which is contradictory to the finding of respondent's McClaim M.D. and ruled his death "accidental". Since the respondent's Dr. McClain M.D. had several "conversations" with the Respondent's Mike Compton it could be inferred that the two acted "jointly" and in "concert" to hasten the ruling of death and void further investigation into death of Arturo Vela See A and B the two "Autopies"**

**2. (a) Tom Stephens is a citizen of the State of Texas, and was employed at the Time of the Claim as a Deputy Sheriff for the Cooke County Sheriff's department in Gainesville,Texas.**

**2. (b) Supporting facts: On July 5th. 2001 The victim, Arturo "Tippy"Vela was found at his residence, and pronounced "dead" at the scene. that the above Respondent's Tom Stephens criminal Investigator; S.Norie deputy Sheriff: Judd Jones Deputy Sheriff, and John Roane, Justice of the peace were responsible for the "investigation" of the death, of Arturo "Tippy" Vela and determining of cause of death, all four respondent's were at the**

scene of the death, and hastened to rule the death as an "accident". very little investigation was done, by the deputies and the little that was done, was done in a "unprofessional manner". As an example ,none of the immediate "family" was questional or asked about their where abouts, at the approximate time of death, In Fact three of the immediate family, members had to approach the deputies, and respondent's John Roane, to insist upon a thorough investigation,Even when the Petitioner's gave them names of possible suspects,, Also the Autopsy, very little questioning was done, and on several occassions, the possible "suspects" were never even contacted ,much less questioned Justice of the Peace, respondent's John Roane, insisted on a quick ruling of death, and even though pertinent "evidence" was brought to his attention, he refused to listen and quickly ruled the death an "accident" even faced with a contradictory autopsy that was made by Dr. Juan Luis Zamora ,stating that the cause of death was a "homicide", Respondent's Roane wouldn't even call for a hearing, to determine all of facts before his ruling.

3. (a) Janelle Haverkamp is a citizen of the state of Texas and was employed by the District Attorney's office as a District Attorney. that at the time of the claim,the Respondent's was responsible for the investigation, and "prosecution" of crimes in the Cooke County, Texas Jurisdiction. At the time of the claims alleged in this complaint arose, Respondent's acting under color of State law 3. (b) count one That Respondent's Janelle Haverkamp, while as the District Attorney for Cooke County met

with the Petitioner's Rodolfo Vela Sr. Rodolfo Vela Jr. and Anna Vela After listening to Petitioner's information and complaints, She ignored her responsibilities as a District Attorney, and denied the Petitioner's rights to "equal protection" of the Law.

3. ( c ) Supporting Facts: That Approximately during the Month of August, 2001, Petitioner's Velas Sr. Vela Jr. and Anna Vela went to the Respondent's office to complain about the inefficient way that the Sheriff's office. Justice of the Peace, and Medical Examiner's office, were mishandling the investigation, of Arturo " Tippy" Vela death. They explained to her that were being ignored by the Sheriff's office, and Justice of the Peace and about the inconsistencies of the autopsies performed. she said that she thought they should go to the sheriff's office . when Vela Sr. explained to her about his ordeal at the sheriff's office on July 12,2001, and that he was afraid of being arrested again, she said that she would look into it, and get back with them as soon as possible, The petitioner's never heard from the respondent'[s or her office again.

3. ( D ) this is to panel of United State Court of Appeals fifth Circuit answer the question of U.S.D.C.of Eastern District of Texas Sherman Division, when they say the Velas do not allege precisely when, they met with Cooke County District attorney Janelle Haverkamp, the Petitioner's Pro Se Rodolfo Vela Sr. went to the United States Department of justice, and discuss with Richard Sambrano, to "type" what I was taken to him, at his office U.S.D.of JUSTICE, Exhibit C about Mike Compton Sheriff, and Janelle Haverkamp, on date March 19,2003 time 1:01

P.M.and SEE ABOVE TO: and the panel answer as {1.} District Attorney Haverkamp became a Texas Judge On January 1,2005, and that four year, from my Son death, or "Murder"and she knew that Arturo Vela was Murder, and also cover up the sheriff Mike Compton, Tom Stephens and John Roane Justice of the Peace, The Petitioner's Pro Se Rodolfo Vela Sr. discover when he hire a FBI blackfish Intelligence investigation Report All work performed by Blackfish intelligence a license # A07282601 went he gave the Petitioner's the U.S.B. that save document storage, and then I dicover the true about My Son Arturo Vela "Tippy" death on date Febuary 15,, 2022 these what the Petitioner's discover the "Photos" from the scene date "July 5,2001" that the Deputy Sheriff Tom Stephens Criminal Investigator took at the Scene, for 22 years, were there at Medical Examiner Office also from John Roane Justce of Peace the "Autopsy" that the Petitioner's gave him for determination, he fax to the Medical Examiner Office Dallas County,Texas for save keeping or hide them, for 22 years.

4. (a) Mark Tackett is a Citizen of the State of Texas and operating in Cooke County Jurisdiction. At the time the claims alleged, in this Complaint arose, the respondent's was acting under Color of State law. that at the time of the claim. The respondent's was responsible for the duties of State of Texas, and to enforce those laws legally, and equally.

4. (b) count one That respondent's Mark Tackett, a

State Trooper for the State of Texas , detained and arrested Petitioner's Rodolfo Vela sr. and Rodolfo Vela Jr. he is deaf, and mute, for unfound charge, and did so for the sole purpose to obstruct the above Petitioner's from fulfilling their right to insist on Cooperation from the Sheriff's office in the investigation of the death of Arturo "Tippy" Vela. That during the Course of the detainment, and arrest Respondent's Tackett made discriminatory remarks about Vela Sr. and Vela Jr. and Vela Jr. nationality.

4. (c) Supporting facts That on July 12,2001, Petitioner's Rodolfo Vela Sr. and Rodolfo vela Jr. went to the sheriff's in Cooke County to Discuss the investigation of Arturo "Tippy"Vela death, and to report additional information that they had concerning, the victim's death, upon arriving Vela Jr. was trying to communicate with the receptionist "Marsha Mayo" at this time ,but due to the fact he is deaf, and does not speak, he was having difficulty in communicating with her from behind, State Trooper Tackett, came up and asked what all the fuss was about before the Petitioner's could explain, respondent's Tackett turned to vela Sr. and asked him if he was a legal immigrant, along with vela Jr. petitioner's vela Sr. explained that yes they were boths legal U.S.Citizen, and that they were there to see the sheriff's,Then respondent's Tackett asked to see their driver's licenses, which they showed him.Then respondent's asked Vela Sr. to say the alphabet Vela Sr. was only A B C to get to the letter u before he stoped. At that time respondent's Tackett asked Vela sr. if he had been drinking Vela Sr.said that he had a drink in the

morning but had been with deputy Sheriff Tom Stephens all that afternoon, until they had arrived, at the sheriff's office. respondent's Tackett then placed Vela Sr., and Vela Jr. under arrest for "Public Intoxication", without the benefit of any breath or blood tests, Vela Jr. due to the fact that he cannot speak was not even given a chance to say the alphabet . if is the petitioner's belief that these actions by respondent's Tackett were not only illegal , but were done for reaons of discrimination and to hamper Petitioner's Vela Sr. and Vela Jr. from seeing the sheriff. Petitioner's contend that this was done by "instructions" from the respondent's Sheriff Mike Compton. here are ( 8 ) Respondent's there name are Former Sheriff Mike Compton; Joni L. McClain, Medical Examiner, and Tom Stephens, the criminal investigator: Judd Jones, deputy Sheriff; S. Norie, Deputy Sheriff; John Roane, Justice of the peace; Janelle Haverkamp, District Attorney; and Mark Tackett, State Trooper;

5. (a) Joseph R. Shires is a Citizen of the State of Texas and was employed at the time of the claims as Deputy sheriff for Cooke County sheriff's Department in Gainesville ,Texas . At the time the claims alleged in this complaint arose. The respondent's was Acting under Color of State Law, responsible for the duties of deputy Sheriff, which duties included the enforcement and investigation of the laws for the State of Texas.

5. ( b ) ( On June 11,2019 ) The petitioner's Rodolfo Vela Sr.Anna Vela, and Melinda Mora went to the Sheriffs, office to request again, to "reopen"Cold Case" offense number 2001-186--28 and the person that work at that department, they

set appointment with the Vela's family, and the name of this person is Sgt. Joseph R. Shires Criminal investigation had very limited information available. The Petitioner's Rodolfo Vela Sr. Anna Vela, and Melinda Mora took what we had, and he was surprise ,After he saw what we had, he said that he going to help us, on ours case. and said "out loud" in front of my family, This is a "Homicide" I will help you to open this cold case, # 2001-186-28.

5. ( C ) Supporting facts: that the respondent's Joseph R. Shires he provide a thorough investigation in the death of Arturo Vela, That he continuously geting information from Dallas County medical Examiner office,, "Photographs" of Arturo Tippy Vela the deceased, he knew that Medical Examiner did a Poor Autopsy, that need to be open, and be investigate by the Texas Ranger or Marshall, and later the Petitioner's Rodolfo Vela sr. Anna Vela , Melinda Vela, did not see him no more, because he was moved to another department as Prosper Police Department.Prosper,Texas.

6. (a ) Aaron Carney Chief investigate, Cooke County District Attorney office, and the petitioner's Rodolfo Vela Sr. Anna Vela, and Melinda Mora, went to the meeting discussed the death of "Arturo Vela " and saw these Deputy Sheriff Aaron unknow Last name with all information that i gave the respondent's "Joseph R. Shires," that when Aaron Carney Chief investigator from District Attorney told us that respondent's Joseph R. Shires moved from the Sheriffs Department to other

**Department. as Prosper police Department.**

**6. ( B ) Aaron Carney Chief investigator Cooke County District Office is a citizen of the State of Texas, and employed at the time of the claims, as chief investigator for Cooke County District Attorney office, Department. In Gainesville,Texas, At the time the claims alleged in the complaint arose The Respondent's was acting under color of State law. that at time of the claim the respondent's was responsible for the duties of chief investigator, Which duties included the enforcement, and investigation of the Law for the State of Texas.**

**6. ( C ) Supporting Facts: that the respondent's Aaron Carney investigator, The petitioner's Rodolfo Vela, Anna Vela and Melinda Mora were there at meeting and the meeting took place on October 15,2020 at 10:30 A.M. At the Cooke County Courthouse located at 101 S. Dixion St. Gainesville.Texas 76240, The Chief investigator District Attorney for Cooke County "met" with the Petitioner's After listening to the Petitioner's information, and complaints he ignored his responsibilities as a chief Investigator for the District Attorney office, and denied the petitioner's rights to equal Protection, of the law. the only thing he said that Joseph R. Shires Deputy Sheriff he don't work with the sheriff's department.**

## **REPORT AND RECOMMENDATION**

### **OF UNITED STATES MAGISTRATE**

**The Petitioner's Objections on Court Docket (86 # ) The autopsy**

of Joni L McClain Doctor finding Toxic Effects of Cocaine and Methamphetamine ,Manner of Death "Accident" the petitioner's met with respondents' Janelle Haverkamp, but the petitioner's amended complaint does not note the date of the alleged meeting that was on August 2001, and also The Petitioner's went to United States Department of Justice and hire Richard Sambrano and type this document on date wednesday March 19,2003 time 1:01 P M on July 9,2001 Mr. Zamora M.D. Conducted an autopsy and determined the cause of death to have been a "homicide" .

**Procedural history, The Petitioner's filed suit in the North District of Texas on February 9,2023 ( Dkt # 3 ) on Febuary 15,2023 the case was transferred. The U.S.M. Judge she don't mention ( DKT 51 # P.4,) "error" motion for Default judgment, The Petitioner's answer on page 4, qualified immunity the District Court must determine the objective reasonableness as matter of law. as a District Court by "knowingly" they violate the law ,qualified immunity is dismiss, and the Petitioner's can proceed civil "damages liability".**

**Judicial immunity, the respondent's John Roane, Justice of the Peace went to scene on July 5,2001 went along with disputes to "cover up" what happen at scene, on date July 5,2001 that why he did not answer Original "Complaint and the Summons' the respondent's' were service by the U.S. Postal sevice, and did not answer or other pleading, and he admit by not answer. The [P]-rotection Extends to all goverment officials "except' the Justice of the Peasce John Roane, he knew or**

"knowing" he was "violate law", when evaluating a claim of Judicial immunity would not apply to him or "nobody" , when they "violated there power" of judicial immunity and is dismiss, and the petitioner's can proceed civil "damage liability" .

Prosecuting Attorney "enjoy immunity" when performing in their role as prosecutors there no room of enjoy immunity if you do wrong or abuse your power, Janelle Haverkamp, while as the District Attorney for the Cooke County "met" with the petitioner's After listening to the petitioner's information, and complaints she ignored her responsibility as a District Attorney, and denied the petitioner's rights to equal protection, of the law, the petitioner;s Rodolfo Vela Sr. et.al.,my right as a citizen of the United States, The principal sources of your rights, as an American Citizen are two document the Constitution of your "State" and the constitution of the "United States" Equal Protection Clause has been used to strengthen and broaden Civil Rights all over the Country, The Court philosophy in applying the Equal Protection, and Due Process Clause, found forceful expression, by congress in the "Civil Right Act" of 1964,which squarely bans discrimination, but not all there still discrimintion. by knowing that Tippy was Murder, and did not arrested nobody, Prosecutors immunity would not apply to the District Attorney Janelle Haverkamp, because she "cover up" "Mike Compton Tom Stephens, and John Roane "Justice of the Peace, and the Petition can Proceed "Civil Damges Liability".

## ANALYSIS

The petitioner's "did not failed" to Serve Respondent's Joni I. McClain, and Jeffrey J. Barnard Petitioner's claim against Respondent's Joni L. McClain and Jerffrey J. Barnard should be dismissed in accordance with Federal Rule of Civil Procedure 4 (m) this is a "mistake" by the U.S.M.Judge this person was serve by the Petitioner's Rodolfo Vela Sr. on date 05/03/2023 ( Dkt 24 what happen here on date 07/19/2023 ( Dkt 29 ) when the Attorney "Christopher A. Klement" appear to Represented all Respondent's are Mike Compton, Sheriff; Tom Stephens Deputy sheriff; S. Norie Deputy Sheriff; Judd Jones Deputy Sheriff; John Roane, Justice of the Peace; Janelle Haverkamp District Attorney ; Joseph R. Shires, Deputy Sheriff ; Aaron Carney, Chief Investigator for District Attorney and that (8) Only the Attorney Christopher A. Klement did not represented Joni L. McClain M.D. since July 19,2023 ( Dkt 29 # until now January 18,2025 and that 183 day hiding here Texas, or Oklahoma,The respondent's Attorney know, and also the U.S.M.Judge,, The U.S. M.Judge did the \* Report and Recommendation of United State Magistrate Judge \* with error .Mistake, discretion, and intend to hide pleading motion like Docket 61 # and Docket 62 # Facts: ( Dkt 61 on date 11/06/2023 the "True" Motion is call ,Motion for rule # 41 Dismissal of Action, and the second 62 # the "true" name of this motion is call County Defendants Response in opposition to Pro Se "Plaintiff;s Frivolous Motion" Also the U.S.M.Judge, Put on the party a P.stand for Plaintiffs, But it should be( D.{ for defendants, is intent is call a forbidden Act, that a Violation of the law, to ( Cover Up ) Docket The Petitioner's on date 11/13/2023

**( Dkt 70 response to These motion ( Dkt 50)**

**BEFORE JOLLY , GRAVES, AND OLDHAN, CIRCUIT JUDGES.**

Rodolfo Vela sr. Rodolfo Vela Jr. and Anna Vela ( collectively, the Velas ) Proceeding Pro Se sued several individuals , employed by Cooke County, and a Texas State Trooper under 42 U.S.C. § 1983 on account of their failure to investigate, and prosecute their relative's death, as a homicide because the District Court Correctly Dismissed their Claim as Time Barred ,we "Affirm" The petitioner's Rodolfo Vela Sr. it was not time barred, Because The Petitioner's filed on date Febuary 9,2023 at that one year only it was timely filed with the discover from Black fish intelligence investigation Report License # A07282601.

**THE OPINION OF THE COURT OF APPEALS FIFTH CIRCUIT**

The court applied the Texas statute of limitations that requires lawsuits involving personal injuries to be filed within two years ? The Petitioner's Pro Se Rodolfo Vela Sr. Rodolfo Vela Jr.and Anna Vela filed the case on Febuary 9,2023 in the United States District court for the Northern District of Texas, case No 3-23cv-0289-E civil Right complaint Pursuant under 42, U.S.C.A. 1983 and 1981,

On Date Febuary 15, 2022 received from black Fish Intelligence investigation report Subj. analysis of Death of Arturo "Tippy" Vela, from Febuary 15,2022 and Febuary 9,2023 and that "one year" So The Petition filed the complaint on time to

**Pursuant his Law Suit against the Respondents', included Joseph R. Shires and Aaron Carney because this two person "did not "open the case of Arturo Vela "Tippy", Joseph R. Shires Criminal Investigator Start helping the Petitioner's Pro Se Rodolfo Vela Sr. and also Aaron Carney chief investigator for District Attorney, from date June 19,2019 Until he was moved from sheriff to police at Proper,Texas, and discuss with Aaron Carney on date October 15, 2020, and hire the Blackfish September 2, 2021, to Febuary 15,2022, and on Febuary 9, 2023 filed the Complaint, at that "one years,"**

**The Date you first had enough information to know you might have a Claim? when the black fish gave me the U.S.B. The petitioner's discover the "black and white Photos" That Tom Stephens badge 105 # the criminal Investigator took at the scene on date July 5,2001 "the family never knew about those photos until Febuary 15,2022' and the autopsy that the Petitioner's gave to John Roane, the Justice of the Peace for "determination" from Juan Luis Zamora M.D.', The Autopsy, and the John Roane fax the Autopsy to Medical Examiner for "22 years" until its was discover by Blaskfish Intelligence, and The petitioner's had enough information to know that I had a case, just by seeing the "Photos" that were at the Medical Examiner office. and again for 22 years at Dallas, County,Texas.**

**The Court of U.S.D. C for the Eastern District of Texas Sherman Division determined that the Petitioner's had enough information by July 8,2003 ? The only information that the Petitiioner's had were the "two Autopsy" one from the Medical**

Examiner Joni L. McClain M.D. she call the manner of death "Accident" findings, Toxic effects of cocaine and Methamphetamine , and The autopsy of Juan Luis Zamora M.D. manner of death to be call" homicide" and Findings : Blunt Force injuries; {A} Contusions, abrasions and lacerations of the head and face with subgaleal, subdural and subarachnoid hemorrhage {B} Contusion and abrasion of the neck. (C) Abrasions of the chest: ( D) Contusions and abrasions of the extremities. by Juan Luis Zamora M.D. by July 8, 2003 was not enough to filed law suit against the Sheriffs Department because on July 9, 2001 the Sheriff Mike Compton "discuss" with Joni L. McClain M.D., and came back and told me the Medical Examiner will 'over Rule' the Autopsy, of Juan Luis Zamora Plus I went to alot of Attorney they say that was not enough, and also the Texas Ranger from Sherman, Texas said bring more "evidence" no the petitioner's did not had enough "evidence" by July 8,2003, and to proof that Petitioner' did not have enough evidence , The petitioners wented to the United States Department Justice March 19,2003 time 1;01 p.m. and discussed with "Ricardo Sambrano" Specialist Community Relation Service. he type what happen in two years, from Mike Compton Sheriff, and District Attorney Janelle Haverkamp, what the petitioner's discuss with her was type on this document that "Richard Sambrano".did for the Petitioner's., its become Exhibit D.

when you filed your wrongful death lawsuit ? This wrong ful death was done by law Firm Christopher J. Cafiero 2926 Maple Ave ,suite 200 Dallas, Texas 75201 Re: Cause No.

**03-312 Rodolfo Vela, Sr. and Anna Vela VS-John Doe and Pioneer Valley Association** at time the only thing he had was Autopsy of Juan Luis Zamora he got the information from Autopsy the case was lost by Summary Judgement, to the Attorney of interest, Grace Weatherly 400 N. Carroll Blvd,suite 202 Denton,Texas 76201

Expressed concerns about Tippy's death? any father are concern about their son death, Specialist when the Sheriff Mike Compton, and The District Attorney Janelle Haverkamp, and Deputy Sheriff Tom Stephens, badge 105 # they all working against the Petitioner's Rodolfo Vela Sr., and the respondents' criminal homicide negligence.

This started the two -year, countdown , which meant the deadline to file a new case was in 2005 ? wrong you can not compare Oranges and Apple the lost of the case was the Plaintiff Attorney the law firm Cafiero the Plaintiffs' Anna Vela complaint with Office of the Chief disciplinary Counsel State Bar of Texas. Christopher Cafiero Texas bar number is ( 24031784 )

Since this case wasn't filed until 2023 -many years after that deadline -the United States District Court for the Eastern District of Texas Sherman Division ruled it too late to move forward? "yes" The Petitioner's Pro Se Rodolfo Vela Sr. can prosuant on a "Murder" there no statue of limitation in a Murder Read the Brief, and both reply Brief, and also that Circuit Judge " ORDER" : IT IS ORDERED that Appellants' motion to file a supplemental brief is GRANTED NO; 24-40302 by E. Grady Jolly

United States Circuit Judge.

## NARRATIVE

On date January 20, 2025, these "Narrative" Rodolfo Vela Sr. the Father of the decease Arturo Vela "Tippy" die, John Roane Justice of Peace send the body to Dallas, County Medical Examiner to Perform their Autopsy, and the following day of July 06,2001 my Daughter Melinda Mora went to pick up the body ,a person name J.B. West that work at that department at the Medical Examiner, said Melinda these person from Mexico call to find out if Arturo Tippy Vela was alive or Death, and my daughter Melinda answer we don't have no family at Mexico, and then he took the body to Calvario Funeral Home , as Rodolfo Vela Sr. the father of the decease open his shirt to put a Gold Chaim of God, that when I saw contusion and abrasion of the Neck, and hire a second opinion July 07,2001 from Juan Luis Zamora M.D. "Pathology", The recollection of the events surrounding the death of Mr. Vela, as presented to me, and the anatomical findings maked the manner of death to be called homicide, from this day of July 7,2001, the Father of the decease Arturo Vela know is a "homicide

On date July 9,2001 went to discuss with sheriffs Mike Compton that I had Autopsy perform by Juan Luis Zamora M.D. that his autopsy is call Homicide, So he went to his office and came back saying the Medical Examiner Joni L.McClain M.D. will over Rule your Autopsy, now boths Mike Compton and Joni L. McClain M.D. knew that i had autopsy call" Homicide" and on

July 10,2001 Rodolfo Vela Jr. was interrogation unattended death offense # 2001-186-28 with interpreter Nancy Truitt. after that The petition only had the two Autopsy until the petitioner's , hire the Blackfish intelligence investigation Report. On September 2,2021, he work as Examine the case file and determine if the Death Investigation should be re-open for a Murder Investigation .

#### **REQUEST FOR RELIEF**

**The Petitioner's Believe that are entitled to the following relief**

- 1. That the Authorities involved in handing on investigation of a death in the Cooke County,Texas Jurisdiction , be ordered to reopen the case of Arturo Vela's death and that it be handled in a proessional manner consistent with those of other investigations.**
- 2. That all actions by the sheriff's office Justice of the Peace, Medical Examiner's, office or any other law enforcement agency ,as well as the District Attorney's office ,be handled without bias toward the nationality of the Petitioner's**
- 3. That each of the following Respondent's former Sheriff Mike Compton; Deputy Sheriff Tom Stephens; Deputy Sheriff, S. Norie; Deputy Judd Jones, State Trooper Mark Tackett ; Medical Joni L.McClain M.D.; John Roane Justice of the Peace; District Attorney Janelle Haverkamp; this ( 8) respondent's knew that Arturo Vela "Tippy" was murder and did not "arrested nobody" they know the Suspect and kept Silence In criminal law silence a**

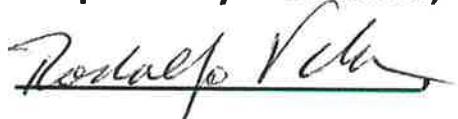
failure to revealed something required by law, and were law enforcement themself on this case.

4, Tex. R. Civ. P. 47 (a ) a short statement of cause of Action sufficient to give fair notice of the claim involved; (b) a statement that the damages sought are within the Jurisdictional limits of the Court. ( c) except in suits governed by the Family Code, a statement that the party seeks: or Monetary Relief;

### CONCLUSION

The family Vela's just wanted Justice because for 23 years The Respondent's law enforcements, and The State Trooper just brought, "unjustice " Until Black fish Intelligence Investigation Report brought the "True" what happen at the scene, on July 5,2001 case number 2001-186-28 and bring Peace to the State of Texas, and the county that were involved, and bring Peace to the family Vela's

Respectfully Submitted,



Pro Se Rodolfo Vela sr.

### DECLARATION UNDER PENALTY OF PERJURY

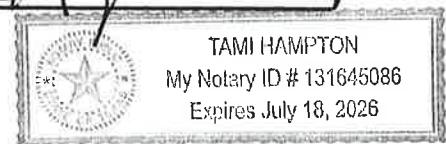
The Undersigned declares under penalty of perjury that he is the Petitioner's Rodolfo Vela Sr. In the Above Action he has read the complaint and information contained therein is true, and correct to the best of my knowlege, 28 U.S.C. § 1746, 18 U.S. C. § 1621.

Executed at the 1001 Coffeyville Tr. Grand Prairie, Texas on this

18 day of February, 2025,

before me a Notary Public in and the Dallas County, Texas on this day Personally appeared Rodolfo Vela Se. to me well know to be a credible person of lawful age and qualified in all respects to make this affidavit and every statement is true and correct.

Subscribed and sworn before me on Feb 18, 2025 to certify which witness my hand seal , Notary Public State of Texas.



#### CERTIFICATE OF COMPLIANCE

As Required by Supreme Court Rule 33.1 (h), I certify that the petition for a writ of certiorari contains 7055 words. excluding the parts of the Petition that are exempted by Supreme Court Rule 33.1 (d).,

by Rodolfo Vela

Rodolfo Vela Sr. Pro Se

#### CERTIFICATE OF SERVICE

I.Certify that this document was filed by U.S.-Mail to the U.S.Supreme Court, of the United States Washington, D.C. 20543-0001, and the Attorney from the Respondent's address and the correct copy, of this Petitioner's for a writ of Certiorari, on date of Febury 18,2025.

Rodolfo Vela

**Pro Se. Rodolfo Vela Sr.**

**1001 Coffeyville Tr.**

**Grand Prairie, Texas 75052**

**jackofvela@yahoo.com**

**972-639-2487**

Anna Vela

**Anna Vela**

Rodolfo Vela Jr. <

**Rodolfo Vela Jr.**

United States Court of Appeals  
for the Fifth Circuit

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United States Court of Appeals  
Fifth Circuit

**FILED**

November 26, 2024

Lyle W. Cayce  
Clerk

RODOLFO VELA, SR.; RODOLFO VELA, JR.; ANNA VELA,

*Plaintiffs—Appellants,*

*versus*

MIKE COMPTON, *Sheriff*; TOM STEPHENS, *Deputy Sheriff*; S. NORIE, *Deputy Sheriff*; JUDD JONES, *Deputy Sheriff*; MARK TACKETT, *STATE TROOPER*; JONI L. MCCLAIN, *Medical Doctor*; JOHN ROANE, *JUSTICE OF THE PEACE*; JANELLE HAVERKAMP, *District Attorney*; JOSEPH R. SHIRES, *Deputy Sheriff*; AARON CARNEY, *Chief Investigator for District Attorney*; JOHN WARREN, *District Attorney*; RAY SAPPINGTON, *SHERRIFF*; TERRY GILBERT, *Former Sheriff*; JEFFREY J. BARNARD, *Medical Doctor CHIEF MEDICAL EXAMINER*,

*Defendants—Appellees.*

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Appeal from the United States District Court  
for the Eastern District of Texas  
USDC No. 4:23-CV-145

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Before **JOLLY, GRAVES, and OLDHAM, Circuit Judges.**

**J U D G M E N T**

This cause was considered on the record on appeal and the briefs on file.

**IT IS ORDERED** and **ADJUDGED** that the judgment of the District Court is **AFFIRMED**.

**IT IS FURTHER ORDERED** that Appellants pay to Appellees the costs on appeal to be taxed by the Clerk of this Court.

The judgment or mandate of this court shall issue 7 days after the time to file a petition for rehearing expires, or 7 days after entry of an order denying a timely petition for panel rehearing, petition for rehearing en banc, or motion for stay of mandate, whichever is later. See Fed. R. App. P. 41(b). The court may shorten or extend the time by order. See 5th Cir. R. 41 I.O.P.

# United States Court of Appeals for the Fifth Circuit

United States Court of Appeals  
Fifth Circuit

**FILED**

November 26, 2024

Lyle W. Cayce  
Clerk

RODOLFO VELA, SR.; RODOLFO VELA, JR.; ANNA VELA,

*Plaintiffs—Appellants,*

*versus*

MIKE COMPTON, *Sheriff*; TOM STEPHENS, *Deputy Sheriff*; S. NORIE, *Deputy Sheriff*; JUDD JONES, *Deputy Sheriff*; MARK TACKETT, *State Trooper*; JONI L. MCCLAIN, *Medical Doctor*; JOHN ROANE, *Justice of the Peace*; JANELLE HAVERKAMP, *District Attorney*; JOSEPH R. SHIRES, *Deputy Sheriff*; AARON CARNEY, *Chief Investigator for District Attorney*; JOHN WARREN, *District Attorney*; RAY SAPPINGTON, *Sheriff*; TERRY GILBERT, *Former Sheriff*; JEFFREY J. BARNARD, *Medical Doctor Chief Medical Examiner*,

*Defendants—Appellees.*

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Appeal from the United States District Court  
for the Eastern District of Texas  
USDC No. 4:23-CV-145

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Before JOLLY, GRAVES, and OLDHAM, *Circuit Judges*.

PER CURIAM:\*

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\* This opinion is not designated for publication. *See 5TH CIR. R. 47.5.*

No. 24-40302

Rodolfo Vela, Sr., Rodolfo Vela, Jr., and Anna Vela (collectively, “the Velas”), proceeding *pro se*, sued several individuals employed by Cooke County and a Texas State Trooper under 42 U.S.C. § 1983 on account of their failure to investigate and prosecute their relative’s death as a homicide. Because the district court correctly dismissed their claims as time barred, we affirm.

## I.

Arturo “Tippy” Vela died on July 5, 2001. The medical examiner performed an autopsy on July 6, 2001 and determined that Tippy died of a drug overdose. After a July 8, 2001 meeting with Cooke County Sheriff Mike Compton, the Velas were so dissatisfied with the investigation into Tippy’s death that they commissioned a private autopsy. The private autopsy, which was performed on July 9, 2001 and finalized on August 17, 2001, found that Tippy’s cause of death was homicide. On July 12, 2001, Rodolfo, Sr. and Rodolfo, Jr. were arrested by Texas State Trooper Mark Tackett for intoxication. The Velas assert that this arrest was part of a conspiracy between Tackett and the Cooke County Defendants to intimidate the Velas and prevent them from discovering issues with the investigation into Tippy’s death. Because of the discrepancy between the two autopsies and these unsatisfactory interactions, the Velas decided that the defendants—various Cooke County employees involved in the investigation and Tackett—had conspired to cover up Tippy’s true cause of death.

In the following years, the Velas attempted to pursue justice for Tippy in a variety of ways. At some point, although the Velas do not allege precisely when, they met with Cooke County District Attorney Janelle Haverkamp.<sup>1</sup>

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<sup>1</sup> District Attorney Haverkamp became a Texas District Judge on January 1, 2005, so this meeting seemingly predicated 2005.

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On July 8, 2003, the Velas filed a wrongful death and premises liability action against their homeowners association regarding Tippy's death. Within that petition, they described how they "became alarmed by circumstances at the scene of [Tippy's] death as well as by statements made by close acquaintances of [Tippy's], and had a second autopsy performed." On October 15, 2020, the Velas met with Aaron Carney, the Chief Investigator for the Cooke County District Attorney. Finally, on February 15, 2022, the Velas allegedly received "the Blackfish Intelligence report," which contained photographs and notes from Tippy's official autopsy, from Cooke County.

On February 9, 2023—over two decades after Tippy's death—the Velas filed the underlying § 1983 lawsuit against the Cooke County Defendants and Tackett. The Cooke County Defendants filed a motion to dismiss under Federal Rule of Civil Procedure 12(b)(6) arguing that the lawsuit was time barred and therefore failed to state a claim upon which relief can be granted. In the alternative, they argued that they were entitled to either qualified, judicial, or prosecutorial immunity. Tackett filed a motion to dismiss under Federal Rules of Civil Procedure 12(b)(2), 12(b)(5), and 12(b)(6) asserting lack of personal jurisdiction, insufficient service of process, and failure to state a claim upon which relief can be granted due to an expired statute of limitations.

A magistrate judge issued a report and recommendation advising that the Velas' claims against the Cooke County Defendants and Tackett be dismissed with prejudice as time barred. Specifically, the magistrate judge found that Texas's two-year statute of limitations applied. With respect to the Cooke County Defendants, the magistrate judge found that the statute of limitations began to run on either July 8, 2001—the date on which the Velas met with Sheriff Compton—or October 15, 2020—the date on which the Velas met with Chief Investigator Carney. With respect to Tackett, the magistrate judge found that the statute of limitations began to run on July 12, 2001—the

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date on which Rodolfo, Sr. and Rodolfo, Jr. were arrested by Tackett. As all of these dates were more than two years before February 9, 2023, the magistrate judge concluded that the statute of limitations barred the Velas' claims.<sup>2</sup>

The Velas filed timely objections to the magistrate judge's report and recommendation. They argued that the statute of limitations did not bar their claims because they did not receive the Blackfish report, which they alleged made them aware of issues with the investigation into Tippy's death for the first time, until February 15, 2022. They further argued that the defendants' fraudulent concealment of the information in the Blackfish report tolled the statute of limitations until their receipt of the report. On the same day, the Velas also filed a motion requesting leave to amend their complaint.

The district court judge adopted the magistrate judge's report and recommendation in full. For multiple reasons, the district court judge did not believe the Velas' "narrative" that they were unaware of issues with the investigation into Tippy's death until their receipt of the Blackfish report on February 15, 2022. First, the Velas' objections were the first time they more than passively referenced the Blackfish report despite their prolific motion practice. Second, their objections were the first time they ever explicitly claimed they were not aware of issues with the investigation into Tippy's death until their receipt of the Blackfish report. Third, the Velas' conduct between Tippy's death and their filing of this lawsuit undermined their claim that they were unaware of issues with the investigation into Tippy's death until receiving the report. Indeed, the district court found it particularly

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<sup>2</sup> The magistrate judge also found that Tackett and two of the Cooke County Defendants had never been properly served, warranting a dismissal with prejudice as to the claims against Tackett and a dismissal without prejudice as to the claims against the two Cooke County Defendants. The magistrate judge further recommended that forty-two pending motions be denied as moot.

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compelling that the Velas' July 8, 2003 lawsuit mentioned that they had a private autopsy performed because they were concerned by things at the scene of Tippy's death and statements given by Tippy's close acquaintances. The district court judge therefore agreed with the magistrate judge that the Velas' claims were time barred and dismissed them with prejudice. Within this order and without explanation, the district court judge also denied the Velas' motion to amend their complaint.

The Velas timely appealed the district court's dismissal.

## II.

We review orders on 12(b)(6) motions to dismiss for failure to state a claim de novo.<sup>3</sup> *Life Partners Creditors' Tr. v. Cowley (In re Life Partners Holdings, Inc.)*, 926 F.3d 103, 116 (5th Cir. 2019). We accept all well-pleaded facts as true, viewing them in the light most favorable to the plaintiff. *Arnold v. Williams*, 979 F.3d 262, 265 n.1, 266 (5th Cir. 2020). We consider all "documents incorporated into the complaint by reference, and matters of which a court may take judicial notice." *Tellabs, Inc. v. Makor Issues & Rts., Ltd.*, 551 U.S. 308, 322 (2007). Rule 12(b)(6) dismissal under a statute of limitations is proper only when the complaint makes plain that the claim is time barred and raises no basis for tolling. *Jones v. Alcoa, Inc.*, 339 F.3d 359, 366 (5th Cir. 2003).

## III.

On appeal, the Velas argue that their claims were timely. Specifically, they contend that their claims are not time barred because (1) they did not realize there were issues with the investigation into Tippy's death until they

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<sup>3</sup> Because the statute of limitations issue is dispositive, we confine our review to the district court's Rule 12(b)(6) dismissal on statute of limitations grounds.

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received the Blackfish report on February 15, 2022, and (2) the statute of limitations was tolled until their receipt of the Blackfish report on February 15, 2022 due to defendants' fraudulent concealment of it. They also seemingly argue that their claims should have been dismissed without prejudice rather than with prejudice. We disagree.

The forum state's personal-injury limitations period applies to § 1983 claims. *Smith v. Reg'l Transit Auth.*, 827 F.3d 412, 421 (5th Cir. 2016). In Texas, that is "two years after the day the cause of action accrues." TEX. CIV. PRAC. & REM. CODE § 16.003(a).

Federal law, not state law, governs when the claim accrues, however. *Walker v. Epps*, 550 F.3d 407, 414 (5th Cir. 2008) (citing *Wallace v. Kato*, 549 U.S. 384, 388 (2007)). Accrual occurs "when a plaintiff has 'a complete and present cause of action.'" *Ibid.* (quoting *Wallace*, 549 U.S. at 388). Thus, a statute of limitations "begins to run 'the moment the plaintiff becomes aware that he has suffered an injury or has sufficient information to know that he has been injured.'" *Piotrowski v. City of Houston*, 51 F.3d 512, 516 (5th Cir. 1995) (quoting *Russell v. Bd. of Trs.*, 968 F.2d 489, 493 (5th Cir. 1992)).

To determine whether the limitations period has been tolled, we return to the law of the forum state. *Walker*, 550 F.3d at 415. In Texas, "[a] defendant's fraudulent concealment of wrongdoing may toll the statute of limitations after the cause of action accrues." *BP Am. Prod. Co. v. Marshall*, 342 S.W.3d 59, 67 (Tex. 2011) (first citing *Kerlin v. Saucedo*, 263 S.W.3d 920, 925 (Tex. 2008); and then citing *HECI Expl. Co. v. Neel*, 982 S.W.2d 881, 886 (Tex. 1998)). Notably, however, "[f]raudulent concealment only tolls the running of limitations until the fraud is discovered or could have been discovered with reasonable diligence." *Id.* (citing *Kerlin*, 263 S.W.3d at 925).

Here, the Velas clearly possessed sufficient information to know that they suffered an injury long before they received the Blackfish report on

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February 15, 2022. *See Piotrowski*, 51 F.3d at 516. Although the Velas argue that the Blackfish report contained photographs and notes from Tippy's official autopsy that alerted them to issues and to the defendants' fraud, there is no indication that these photographs and notes imparted new information. The Velas' activities in the years immediately following Tippy's death also undercut any suggestion on their part that they did not believe there were issues with the investigation into Tippy's death years before they received the report. At the earliest, they possessed sufficient information to believe there were issues with the investigation into Tippy's death during the summer of 2001 after meeting with Sheriff Compton, getting arrested by Tackett, and receiving the private autopsy results. At the latest, they possessed sufficient information to believe there were issues with the investigation into Tippy's death when they filed their lawsuit on July 8, 2003. Assuming that the latter date is the accrual date, the statute of limitations would have run on July 8, 2005—over seventeen years before the Velas filed the underlying lawsuit.<sup>4</sup> These events—and the knowledge by the Velas they demonstrate—also negate the Velas' claim that the defendants' alleged fraudulent concealment of the Blackfish report tolled the statute of limitations. *See Marshall*, 342 S.W.3d at 67. The Velas' claims are therefore barred by the statute of limitations and were properly dismissed.

To the extent that the Velas challenge the district court's decision to dismiss their claims with prejudice and deny their motion to further amend

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<sup>4</sup> As described above, the Velas also allege that they met with District Attorney Haverkamp on an unspecified date and with Chief Investigator Carney on October 15, 2020. Neither of these alleged meetings move the needle as they do nothing to contradict the Velas' possession of sufficient knowledge regarding their injuries on July 8, 2003. There is also no indication in the pleadings that the Velas learned anything new at these meetings. In any case, the Velas' claims would still be time barred if they did not accrue until the Velas' October 15, 2020 meeting with Chief Investigator Carney.

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their complaint, we find that the district court did not abuse its discretion in doing so as amending the complaint would have been futile. *See Legate v. Livingston*, 822 F.3d 207, 211 (5th Cir. 2016) (stating that “a district court need not grant a futile motion to amend” and that “[f]utility is determined under Rule 12(b)(6) standards”); *Whitaker v. McDonald*, No. 20-40569, 2022 WL 68972, at \*2 (5th Cir. Jan. 6, 2022) (holding that the district court did not abuse its discretion in denying a plaintiff leave to amend his complaint where doing so would have been futile due to an expired statute of limitations).

Accordingly, the district court correctly dismissed the Velas’ claims with prejudice and the judgment is, in all respects,

AFFIRMED.

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