

Dear: Clerk for the U.S. Supreme Court
1. First Street N.E.
Washington DC 20543-0001
Attorney General of Texas
P.O. Box 12548 - ~~2548~~
Austin Tx 78711-2548

12/19/17

Re: Monzelle L. Steptoe Vs. Lorie Davis, TDCJ- Director

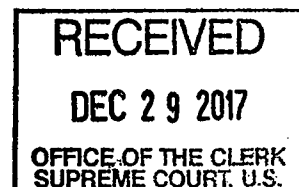
No. 17-7017

SUPPLEMENTAL

I have enclosed the Original Copies of my Motion Attacking Sentence Rule 6 Discovery, Rule 7 Expanding the Record and Rule 8 Evidentiary Hearing to this Court. Could You PLEASE bring these Motion to the attention of the Court and Return the Carbon Copy of the Date they was filed with the Court for my personal Copy. I have sent these copies to the respondents on the same day this was placed in the mail box. Thank You very much for your time and consideration in this matter at hand. GOD Bless You and Your family!!

Respectfully Submitted
Monzelle L. Steptoe #1622644
Monzelle L. Steptoe #1622644
French M. Robertson Unit
12071 FM 3522
Abilene Tx 79601

(P.S.) The Unit is Lockdown is why my documents and Exhibits are not stapled together is a more neat way.



ccl/conv STEPTOE's Motion Attacking Sentence Rule 6 Discovery 3 pages
Motion Attacking Sentence Rule 7 Expanding the Record 4 pages
Motion Attacking Sentence Rule 8 Evidentiary Hearing 3 pages

Dear: Clerk for the U.S. Supreme Court

12/19/17

1, First Street N.E.

Washington DC 20543-0001

Attorney General of Texas

P.O. Box 12548 - ~~2548~~

Austin Tx 78711-2548

Re: Monzelle L. Steptoe Vs. Lorie Davis, TDCJ-Director
No. 17-7017

I have enclosed the Original Copies of my Motion Attacking Sentence Rule 6 Discovery, Rule 7 Expanding the Record and Rule 8 Evidentiary Hearing to this Court. Could You PLEASE bring these Motion to the attention of the Court and Return the Carbon Copy of the Date they was filed with the Court for my personal Copy. I have sent these copies to the respondents on the same day this was placed in the mail box. Thank You very much for your time and consideration in this matter at hand. GOD Bless You and Your family!!

Respectfully Submitted
Monzelle L. Steptoe #1622644
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French M. Robertson Unit
12071 FM 3522
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cc/conv STEPTOE's Motion Attacking Sentence Rule 6 Discovery 3 pages
Motion Attacking Sentence Rule 7 Expanding the Record 4 pages
Motion Attacking Sentence Rule 8 Evidentiary Hearing 3 pages

SUPREME COURT OF THE UNITED STATES

Monzelle L. Steptae.
Petitioner,
vs.

Lorrie Davis, TACT. Director.
Respondent

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No. 17-7017
USDC No. 3:14-CV-381
5th Cir No. 16-40845

Motion Attacking Sentence Pursuant to Rule 6 Discovery
TO THE HONORABLE SUPREME COURT JUDGES:

Now comes, Monzelle L. Steptae, Petitioner, Pro-se in the above style number and cause, makes this Motion Attacking Sentence pursuant to Rule 6 Discovery and will show this Court the following:

I.

First, Petitioner has presented genuine substantial claims and issues of a "factual dispute", that are unresolved issues dealing with scientific Biological Material DNA Evidence of Cell Phone swabs 004 that was intentional, and knowingly withheld, suppressed from the Records and the defense Counsel before trial, that is "EXCULPATORY DNA Material Evidence" that would have proven the Petitioner's Actual Innocence of the allege charges and conviction, according to the STATES Prosecutor David Smith testimony to the trial court jury, stated: the DNA didn't come back to say that it was this Defendant, see (R.R.V.4, p.30, 18-23).
Petitioner's trial counsel filed her Motion for Discovery and Inspection pursuant to Article 39, 14 on March 31, 2009 at 8:15 a.m. that was denied, see (5th Circuit Records of copies)

Petitioner's trial counsel then filed a Motion for Independent Examination of the DNA Evidence on April 20, 2009 that was also denied.

II.

Petitioner request that the STATE produce STATES Exhibits 17A and 17B of the Custodial Interrogation Videotape Recording that was admitted into the Record, that is a "Reserved Error" see (attached R.R.V.3, p.57, 1-7), in which is the "factual dispute" of the violation of the Petitioner's Miranda Warning Rights that are [unresolved] issues that NEEDS to be addressed by this Court, due to the false testimony given by Detective Shawn Spwell of the Alvin Police Department concerning those Miranda Warning Rights and testimony in the transcripts, see (R.R.V.3, p.54, 55, 56 and 57), in which is not [NOT] supported by the Custodial Interrogation Videotape Recording, STATES Exhibits 17A and 17B, of the [factual dispute] that the STATES Prosecutor Cindy Hall intentionally and knowingly question Detective Shawn Spwell

about those Miranda Warning Rights that was "NEVER" given to the Petitioner "DURING" any part of that Custodial Interrogation Videotape Recording that violates the Texas Code of Criminal Procedure Article 38.22, 3(a)(2). States: No oral or sign Language statement of an accused made as a result of an Custodial Interrogation shall be admissible against the accused in a proceeding unless: (2) prior to the statement but [DURING] the Recording the accused is given the warning in subsection (a) of section 2 above and the accused knowingly, intentionally and voluntarily waives any rights set out in the warning, see (Angel Resendez Vs. STATE, 256 S.W.3d, 315 at 336 (Tex. App. [14 Dist] Houston 2008)).

Also, when Police first interrogate a suspect without Miranda Warning, then issue Miranda Warning and interrogate the suspect a second time, the second statement "MUST" be EXCLUDED as well. Petitioner was interviewed by Det. Sewell first in the Custodial Interrogation interview (STATE'S Exhibit 17A and 17B), then Det. David Ives and Eric Price was the one's who obtained the Untruthful written statement. (STATE'S Exhibits 29

Most Circuits have adopted to Justice Kennedy's Test in Seibert, which held that when Police deliberately interrogated a suspect without Miranda Warning before a second properly warned interrogation, so that the Police can "USE" the suspect's earlier unwarned confession to "ELICIT" a warned confession, the second statement "MUST" also be EXCLUDED, see, Mo Vs. Seibert, 542 U.S. 600, 15 and at 622 (2004), also, Miranda Vs. Arizona, 384 U.S. 436, 86 S.Ct. 1602, 16 L.Ed. 2d. 694 (1966) at 2619.

The "Factual Dispute" is that, Detective Shawn Sewell made a sworn testimony under oath, to given the Petitioner those Miranda Warning "During" the Custodial Interrogation Videotape Recording, that is the "Factual Dispute" that is unresolved Perserved Error, issues see (R.R.V. 3, p. 57, 1-7 (attached), because when the Custodial Interrogation Videotape Recording, (STATE'S Exhibits 17A and 17B) is reviewed, it will validate the "Probative Facts" that the Petitioner was "NEVER" given any parts of those Miranda Warnings by Detective Shawn Sewell "During" the Custodial Interrogation Videotape Recording STATE'S Exhibits 17A and 17B, that will prove beyond a reasonable doubt that those Miranda Warning testimony by Detective Shawn Sewell is a False testimony made to the trial Court Jury, that has caused a great deal of harm and "PREJUDICE" to the Petitioner's Rights under the 14th U.S.C. Amendment and 5th Amendment Right, that makes STATE'S Exhibits 17A, and 17B and #29 inadmissible evidence in this cause. The NEED for an Evidentiary Hearing and Discovery to develop those Records to resolve the "Factual Dispute" the Petitioner has adequately presented these claims and issues that are unresolved issues concerning this matter at hand.

PRAYER FOR RELIEF

Petitioner respectfully request this Court to GRANT this Motion Attacking the sentence pursuant to Rule 6 Discovery to develop the Records of the Biological Material DNA Evidence of the Cell Phone Swabs 004 that was withheld Suppressed by the STATE from the Records of the Petitioner's [Original] trial that proved to be "Exculpatory DNA Material Evidence" and the production of copy STATE'S Rule 6 Discovery Motion Attacking the Sentence

of the record and transcripts to State's Exhibits 17A and 17B to be transcribed to resolved the "Factual dispute" of the unresolved issues concerning these matters of the Petitioner's constitutional Right violations at hand. 30
PRAYED!!

Respectfully Submitted
~~Monzelle L. Steptoe #1622644~~
Monzelle L. Steptoe #1622644
French M. Robertson Unit
12071 FM 3522
Abilene Tx 79601

Certificate of Service

I, Monzelle L. Steptoe, declare that a true and correct copy of the foregoing Motion Attacking Sentence Rule 6 Discovery was placed in the French M. Robertson Unit mailbox on December 19, 2017 mail to U.S. Supreme Court Clerk, 1 First Street, N.E. Washington, DC 20543 and the Respondent Attorney General of Texas, P.O. Box 12548-3548 on this 19 day of December 2017.

Respectfully Submitted
~~Monzelle L. Steptoe #1622644~~
Monzelle L. Steptoe #1622644
French M. Robertson Unit
12071 FM 3522
Abilene Tx 79601

SUPREME COURT OF THE UNITED STATE

Monzelle L. Steptoe,
Petitioner,

Vs.

Lorie Davis, TDCJ Director,
Respondent,

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No. 17-7017
USDC No. 3:14-CV-381
5th Cir. No. 16-40845

Motion Attacking Sentence pursuant to Rule 7
Expanding the Record

TO THE HONORABLE SUPREME COURT JUDGES:

NOW COMES Monzelle L. Steptoe, Petitioner, Pro-se, in the above style number and cause, Makes this Motion Attacking Sentence pursuant to Rule 7 Expanding the Record and will show this court the following:

I.

Petitioner has adequately presented these genuine issues of material facts of the "Factual dispute" that are unresolved issues dealing with Biological Scientific DNA Material Evidence cell phone swabs 004 that was not made available to the Defense Counsel before the Petitioner's [original] trial when defense counsel pursued the Petitioner's "Solo Defense" to the court.

Defense Counsel filed her Motion for Discovery and Inspection on March 31, 2009, nine months before trial that was denied by the trial court.

Defense Counsel then filed a Motion for an Independent Examination of the DNA evidence in the STATE possession on April 20, 2009 that was denied. Such Biological Material DNA Evidence was not made available for the defense counsel before the Petitioner's [original] trial and the Alvin Police Department Detective Shawn Sewell Voluntary Confession to the Probative Facts that another Detective obtain DNA Evidence from the Cell Phone swabs 004 and later submitted it to the Lab for DNA testing.

HOWEVER, the Petitioner has received 2 Affidavits and one sworn statement 3 years later that supports his allegation of the BRADY Material Evidence was in the STATE's possession at the time Defense Counsel requested for such Biological Material Evidence before the Petitioner's original trial.

Prosecutor David Smith filed an Affidavit on April 24, 2013 stated: I believed there was no necessity to test all the samples. If I had been aware of any Exculpatory Evidence, I would have turned it over to the defense Counsel prior to trial. Prosecutor Smith has take full responsibility for not testing all the evidence of Biological Material Evidence and was the one who made decision of what is Exculpatory Evidence or not in this case.

Petitioner received an Affidavit of Deputy District Clerk Rachelle Wagner who stated: After diligent search, I found the following biological evidence in the possession of our office, #15, STATE's Exhibits #20A Cell phone and the Condition appears good on April 24, 2013.

cc/copy STEPTOE's Rule 7 Expand the Record, Motion Attacking Sentence

Officer Roger Breax of the Alvin Police Department made a sworn under oath chapter 64 form [Validating] the Petitioner claims and issues that the STATE withheld, suppressed "EXCULPATORY DNA Material Swabs 004 of Cell Phone" that was in the possession and control of an agency of the STATE, at the time that the Defense Counsel filed her properly filed Motions for Independent Examination of the DNA Evidence that was not made available to the Petitioner's Defense Counsel before trial.

The request to Expand the Record is "NEEDED" to obtain those potential DNA test results of the Petitioner's Cell Phone Swabs 004 to be compared to the DNA Evidence obtained from the victims vehicle to resolve the "Genuine Factual dispute" of the Petitioner's claims and issues of his "Actual Innocence" for the crime and charges ~~was~~ against him and will establish by a preponderance of the evidence, that the Petitioner did not commit the crime as either a principal or a party to the said crime.

II.

Petitioner has presented substantial genuine issue of the violation of the Texas Code of Criminal Procedures Article 38.22.3(a)(2) and the Perjury Committed by the Alvin Police Department Detective Shawn Sewell who ~~has~~ had conspired with the STATE Prosecutor Cindy Hall to commit such harmful Error before the trial Court Jury on January 21, 2010, when Prosecutor Cindy Hall intentionally and knowingly question Detective Shawn Sewell about the Custodial Interrogation Videotape Interview pursuant to the Article 38.22.3(a)(2) states: No oral or sign Language statement of an accused made as a result of an Custodial Interrogation shall be admissible against the accused in a criminal proceeding unless: (2) prior to the statement but "DURING" the Recording the accused is given the warning in subsection (a) of section 2 above and the accused knowingly, intentionally and voluntarily waives any rights set out in the warning, see (Angel Resendez Vs STATE, 256 S.W. 3d 315 at 336 (Tex. App. [14th Dist] Houston 2008)). In which, the Petitioner was "NEVER" given any of those Miranda Warning Rights, is why the Petitioner's Defense Counsel filed the Motion to Suppress STATE's Exhibits 17A, 17B and 29 that are (Preserved Errors) see (attached R.R.V. 3, p. 57 and 126) for STATE's Exhibits 17A, 17B and 29, because for such violation by the STATE's officials, that the Perjury testimony made by Detective Shawn Sewell in the Reporter's Records Volume 3 pages 54, 55, 56 and 57 are not supported by the Custodial Interrogation Videotape Recording STATE's Exhibits 17A and 17B that holds the Probative Facts of the "Actual dispute"

cc copy STATE's Rule 7 Expanding the Records, Motion Attacking the Sentence
PAGE 7 - 51

The "Factual dispute" is that the Petitioner "NEVER" received those Miranda Warning Right "during" that Custodial Interrogation Video Tape Recording STATE's Exhibit 17A and 17B holds the "Probative Value" of the "Unresolved Genuine issue" that the STATE Prosecutor Cindy Hall intentionally and knowingly conspired with the Alvin Police Department Detective Shawn Sewell to commit the perjury on January 21, 2010 under oath before the trial Court Jury, see (R.R.V.3, p.54, 55, 56 and 57 attached with the preserved Error in R.R.V.3, p.126).

The need to Expand the Record and have STATE's Exhibits 17A and 17B transcribes for the Records to validate the such Misconduct by these STATE officials in this cause that has PREJUDICE the Petitioner's right to a fair trial, but for such Violation of the irreparable injuries has resulted in the conviction of one who is Actually Innocence and this conviction has rendered in a Miscarriage of Justice and to deny the Petitioner the Right to Expand the Record, would result in a continuance Fundamental miscarriage of Justice, that will violate the Petitioner's 5th, 6th, 8th and 14th Amendment of the United STATES Constitution herein.

PRAYER FOR RELIEF

Petitioner respectfully request the Honorable Supreme Court to GRANT this Motion Attacking Sentence pursuant to Rule 7 Expanding the Records to resolve the "factual disputes" of the genuine issues that has been adequately presented to this Court of the Constitutional Violation that has occurred in this cause and Remand back to the trial Court for such production of record and live Evidentiary hearing, with a Order of finding and Facts and Conclusion of Law to enter a judgement of an Acquittal under Actual Innocence and discharge upon such finding from TDCJ-ID, SO PRAYED!!

Respectfully Submitted
~~Monzelle L. Steptoe~~ #1622644
Monzelle L. Steptoe #1622644
French M. Robertson Unit
12071 FM 3522
Abilene Tx 79601

Certificate of Service

I, Monzelle L. Steptoe, declare that a true and correct copy of the foregoing Motion Attacking Sentence pursuant to Rule 7 Expanding the Record was placed in the French M. Robertson mail box on the 19 day of December 2017, mailed to the U.S. Supreme Court Clerk 1, First Street N.E., Washington DC 20543 and the Attorney General of Texas P.O. Box 12548-25-48 on the 19 day of December 2017.

Respectfully Submitted

Monzelle L. Steptoe #1622644
French M. Robertson Unit
12071 FM 3522
Abilene TX 79601

SUPREME COURT OF THE UNITED STATES

Monzelle L. Steptoe,
Petitioner,

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Vs.
Lorie Davis, TDCJ, Director,
Respondent.

No. 17-7017
USDC, No. 3:14-cv-381
5th Cir No. 16-40845

Motion Attacking Sentence Pursuant to Rule 8
Evidentiary Hearing

TO THE HONORABLE SUPREME COURT JUDGES:

"NOW COMES, Monzelle L. Steptoe, Petitioner, Pro-se, in the above style number and cause, Makes this Motion Attacking Sentence pursuant to Rule 8 Evidentiary Hearing and will show this Court the following:

I

Petitioner has adequately presented these genuine substantial claims and issues of the "Factual dispute" that are unresolved issues dealing with the Scientific Biological Material DNA Evidence of Cell Phone Swabs 004 that was not made available to the Defense Counsel upon her requested properly filed Motions for Discovery and Inspection pursuant to Article 39.14, filed March 31, 2009 that was Denied by the trial Court, see (5th Cir. Records for Motion attached).

Petitioner's Defense Counsel then filed a Motion For Independent Examination of the DNA Evidence on April 20, 2009, that was also denied by the trial Court.

In which the STATE's Prosecutor's intentionally and knowingly, withheld, suppress from the Record and the defense Counsel, the Cell Phone Swabs 004 before trial, that "Exculpatory DNA Material Evidence" from the [Original] trial that would have "EXONERATED" the Petitioner, if had been made available to the Defense Counsel upon her properly filed Motion 9 month before trial. In which, on the 22 day of January 2010, Prosecutor David Smith Voluntary Confession to the trial Court Jury, that the STATE had "EVERYTHING" tested and that the DNA didn't come back to this defendant, WE have nothing to hide, WE HAD IT TESTED, see (R.R.V. 4, p. 30, 18-23). As you review the STATE's Exhibit #30 Supplemental Serology DNA Report of the Record date November 13, 2009, You will see that swabs 001-004 [are not] made apart of the Record, and that the Petitioner's Cell Phone Swabs 004 [are not] apart of the Record, because the STATE's Prosecutor David Smith intentionally and knowingly, withheld suppressed those potential "Exculpatory DNA Swabs 004 of Cell Phone" from the Record of the [Original trial] that would "EXCULPATE" the Petitioner from the blame or the accusation, that would have proven Petitioner to be [NOT GUILTY] of the charges and conviction against the Petitioner.

Petitioner obtained 2 Affidavits and one sworn under oath report form on the 24 day of April 2013, the first Affidavit by Prosecutor David Smith, the second Affidavit is by Deputy District clerk Bachelie Wagner stated: After diligent search, I found the following "Biological Evidence" in the possession of our office, dated April 24, 2013, see (attached Exhibits to 5th Circuit). And a chapter 64 C.C.P. DNA Report form by the Alvin Police Department officer Roger Breaux of the Biological Material Evidence #5 transferred to another agency: Evidence Description #001 Benetropine, charpromaz, Burpropion and 004 silver Motorola phone, sign April 24, 2013 sworn to before a Notary Public that are sworn "Probative Fact" in support of the Petitioner's claims and allegations of the BRADY Rule violation, that has occurred and has "CAUSE" a great deal of harm and "PREJUDICE" to the Petitioner's Rights under the 14th Amendment Due Process Rights to a Fair trial, due to such irreparable injury has resulted in the conviction of one who is "ACTUALLY INNOCENCE" herein.

II.

Petitioner has attached the trial transcripts of the Reporters Records of the Defense Counsel's time Objection to STATE's Exhibits #17A and 17B, see (R.R. V.3, p.57, 1-7 attached) and STATE's Exhibits #29 Written Statement see (R.R. V.3, p.126, 9-20 attached) of the [Preserved Errors] of the Custodial Interrogation Videotape Recording, STATE's Exhibits 17A and 17B and the Written Statement STATE's Exhibit 29. Such errors are unresolved "factual dispute" of violations.

Detective Shawn Sewell of the Alvin Police Department intentionally and knowingly committed "PERJURY" to the trial Court Jury on January 21, 2010 about Miranda Warning Rights in which Detective Shawn Sewell testimony to the trial that he advised the Petitioner the entire Miranda Warning during that Recorded Custodial Interrogation Videotape Recording, see (attached R.R. V.3, p.54, 55, 56 and 57). In which is the "factual Dispute" concerning the Probative facts of the Texas Code of Criminal Procedure Article 38.22, 3(a)(2) states: No oral or sign Language statement of an accused made as a result of an Custodial Interrogation shall be admissible against the accused in a Criminal proceeding unless a (2) prior to that statement but [DURING] the Recording the accused is given the warning in subsection (a) of section 2 above and the accused knowingly, intentionally and voluntarily waives any rights set out in the warning, see (Angel Resender Vs. STATE 256 S.W. 3d, 315 at 336 (Tex. App. [14th Dist.] Houston 2008).

Prosecutor Cindy Hall intentionally and knowingly question Detective Shawn Sewell on January 21, 2010 under oath before the trial and committed a chain conspiracy, in which both STATE official had the opportunity to review the Custodial Interrogation Videotape Recording before trial, (STATE's Exhibit 17A and 17B of those Miranda Warning Rights that was [NEVER] given to cc/copy STEPTOE's Rule 8 Evidentiary Hearing, Motion Attacking Sentence

Petitioner on that Videotape Recording that holds the "Probative Value" of the violation of the Texas Code of Criminal Procedure, Article 38.22, 3(a)(2) and the Petitioner's 5th And 14th Amendment Rights under the United States Constitution.

However, Prosecutor Cindy Hall asked Detective Shawn Sewell did you review the videotape before this? and Detective Sewell answer Yes, see R.R.V.3, p.54.)

Prosecutor Cindy Hall intentionally and knowingly question Detective Shawn Sewell about those Miranda Warning Rights that they both was fully aware that those Miranda Warning Rights was [NEVER] given to the Petitioner at any time [During] that Custodial Interrogation Videotape Recording (STATEs Exhibits 17A and 17B).

If the Petitioner is denied the request for an Evidentiary Hearing to obtain the Probative facts, to show his burden of proof, would render in a continuance miscarriage of Justice that will violate the Petitioner 4th, 5th, 6th, 8th and 14th Amendment to the United STATEs Constitutional Rights herein.

PRAYER FOR RELIEF

Petitioner respectfully request this Honorable Supreme Court to GRANT this Motion Attacking Sentence pursuant to Rule 8 Evidentiary Hearing and also the GRANTING of the Appointment of Counsel pursuant to the Government Code Article 1.051(a) due to the Petitioner is indigent, SO PRAYED!!

Respectfully Submitted
~~Manzelle L. Steptoe~~ #1622644
Manzelle L. Steptoe #1622644
French M. Robertson Unit
12071 FM 3522
Abilene Tx 79601

Certificate of Service

I, Manzelle L. Steptoe declare that a true and correct copy of the foregoing Motion Attacking Sentence pursuant to Rule 8 Evidentiary Hearing was placed in the French M. Robertson Unit mail box on the 19 day of December 2017 mailed to the U.S. Supreme Court Clerk, 1 First Street N.E. Washington DC 20543 and the Attorney General of Texas P.O. Box 12548 - 2548 on the 19 day of December 2017.

Respectfully Submitted
~~Manzelle L. Steptoe~~ #1622644
Manzelle L. Steptoe #1622644
French M. Robertson Unit
12071 FM 3522
Abilene Tx 79601

Monzelle L. Steptoe Vs. Lorie Davis
No 17-7017

STEPTOE's Exhibits R.R.V.3, p. 54, 55, 56 and 57
of PERSERVED ERRORS

STEPTOE Exhibits R.R.V.3, n. 126 of Perserved Error

1 Exhibit No. 15 to the jury.

2 THE JUDGE: Okay. Granted.

3 Q. (By Ms. Hall) And if the jury wants to look at
4 the number just press this up. Officer, going back from
5 this morning's testimony, you told this jury that you
6 had the done the interview of the defendant on December
7 the 16th 2008.

8 A. Yes, ma'am.

9 Q. And I believe you already told the jury that
10 you did that on a in an interview room.

11 A. Correct.

12 Q. And your interview with Mr. Steptoe was
13 recorded.

14 A. Correct.

15 Q. Did you advise Mr. Steptoe of his
16 constitutional rights?

17 A. Yes, ma'am.

18 Q. Did you tell him that he had the right to have
19 an attorney?

20 A. Yes, ma'am.

21 Q. Did you tell him he had the right to remain
22 silent?

23 A. Yes, ma'am.

24 Q. That he had a right to have an attorney prior
25 to or during any questioning?

1 A. Yes, ma'am.

2 Q. He had the right to the have an attorney during
3 any prior to questioning and during any questioning?

4 A. Yes, ma'am.

5 Q. The he had the right terminate the interview at
6 any time?

7 A. Yes, ma'am.

8 Q. Did Mr. Steptoe indicate to you that he
9 understood each of those rights?

10 A. Yes, ma'am.

11 Q. And how did he indicate this to you?

12 A. He first shook his head and then he I said he
13 had to make a statement. He said yes.

14 Q. Did he agree to waive his constitutional rights
15 and to speak with you about that case?

16 A. Yes, ma'am.

17 Q. Did you force or threaten Mr. Steptoe in any
18 way to get this statement from him?

19 A. No, ma'am.

20 Q. Did you promise him anything?

21 A. No, ma'am.

22 Q. Did you deny him basic necessities, such as
23 food, water, cigarettes anything like?

24 A. No, ma'am.

25 THE JUDGE: Will the record then reflect

1 that cigarettes are not a basic necessity.

2 MS. HALL: Did I say that wrong? Sorry.

3 THE JUDGE: Well, you said denies the
4 basic necessities like food, water and --

5 MS. HALL: For some, your Honor, I think
6 cigarettes where a basic necessity.

7 Q. (By Ms. Hall) I am showing at this time marked
8 for identification purposes number 17A. Do you
9 recognize this?

10 A. It's a videotape.

11 Q. Did you have the opportunity to view this
12 videotape prior to your testimony?

13 A. Yes, ma'am.

14 Q. What is this?

15 A. It's transferred of our disk to the videotape
16 of the interview.

17 Q. Other than the deletions that have been order
18 by the Court, does this tape contain the interview that
19 you had with the defendant on December the 16th 2008?

20 A. Yes, ma'am.

21 Q. Can you identify all the voices on this video?

22 A. Yes, ma'am.

23 Q. Who are the voices that you hear?

24 A. It would be myself and Mr. Steptoe.

25 Q. We would offer State's Exhibit No. 17A.

1 MS. GORDON: We would urge our objection
2 under the motion to suppress.

3 THE JUDGE: I overrule your objection.

4 MS. HALL: Permission to play the tape for
5 the jury.

6 (Tape playing)

7 MR. SMITH: Judge, can we get lights off?

8 Q. (By Ms. Hall) Okay. After that interview with
9 the defendant, did you take him back to his cell?

10 A. Yes, ma'am.

11 Q. And was it later in the day that another
12 officer from another agency came to the PD to talk to
13 Mr. Steptoe?

14 A. Yes, ma'am.

15 MS. HALL: Pass the witness.

16 **RECROSS-EXAMINATION**

17 BY MS. GORDON:

18 Q. Officer Sewell, let me just ask you again, how
19 long have you been with the Alvin Police Department?

20 A. Since 2000, ma'am.

21 Q. Okay. And you've had occasion to take numerous
22 statements from individuals who have been accused of an
23 offense; is that correct?

24 A. Yes, ma'am.

25 Q. And you say that you advised Mr. Steptoe of his

Eric Price - January 21, 2010
Voir Dire Examination by Ms. Gordon

1 A. What other two?

2 Q. There were three?

3 A. Mr. Steptoe was one of them and myself and then
4 Detective Ives.

5 Q. And were you wearing your gun at the time of
6 the interview?

7 A. Yes.

8 MS. GORDON: I pass the witness.

9 MS. HALL: Again, your Honor, I offer
10 State's Exhibit No. 29.

11 MS. GORDON: We would urge our motion to
12 suppress, Judge.

13 THE JUDGE: That's on the written one?

14 MS. HALL: Your Honor, we don't have a
15 motion to suppress on the written statement.

16 MS. GORDON: We would then object to this
17 evidence based on the information and the hearing
18 previously held on the motion to suppress.

19 THE JUDGE: I'll overrule that. They're
20 admitted.

21 (Exhibit(s) was/were offered and received
22 into evidence)

23 MS. HALL: Thank you, your Honor.
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SUPREME COURT OF THE UNITED STATES

Monzelle L. Steptoe,
Petitioner,
Vs.

Lorie Davis, TNCJ Director,
Respondent

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No# 17-7017
USDC No. 3:14-CV-381
5th Cir No. 16-40845

Motion Attacking Sentence Pursuant to Rule 6 Discovery

TO THE HONORABLE SUPREME COURT JUDGES:

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First, Petitioner has presented genuine substantial claims and issues of a "factual dispute", that are unresolved issues dealing with Scientific Biological Material DNA Evidence of Cell Phone swabs 004 that was intentional and knowingly, withheld, Suppressed from the Records and the defense Counsel before trial, that is "EXCULPATORY DNA Material Evidence" that would have proven the Petitioner's Actual Innocence of the allege charges and conviction, accordingly to the STATE's Prosecutor David Smith testimony to the trial Court Jury, stated: the DNA Didn't come back to say that it was this Defendant, see (R.R.V.4, p.30, 18-23).

Petitioner's trial Counsel filed her Motion For Discovery and Inspection pursuant to Article 39.14 on March 31, 2009 at 8:15 a.m. that was Denied, see (5th Circuit Records of copies)

Petitioner's trial Counsel then filed a Motion For Independent Examination of the DNA Evidence on April 20, 2009 that was also denied.

II.

Petitioner request that the STATE produce STATE's Exhibits 17A and 17B of the Custodial Interrogation Videotape Recording that was admitted into the Record, that is a "Preserved Error" see (attached R.R.V.3, p. 57, 1-7). In which is the "factual dispute" of the violation of the Petitioner's Miranda Warning Rights that are [unresolved] issues that NEEDS to be addressed by this Court, due to the False testimony given by Detective Shawn Sewell of the Alvin Police Department concerning those Miranda Warning Rights and testimony in the transcripts, see (R.R.V.3, p. 54, 55, 56 and 57). In which is not [NOT] supported by the Custodial Interrogation Videotape Recording, STATE's Exhibits 17A and 17B, of the [factual dispute] that the STATE's Prosecutor Cindy Hall intentionally and knowingly question Detective Shawn Sewell

cc/copy STEPTOE's Rule 6 Discovery Motion Attacking the Sentence

about those Miranda Warning Rights that was "NEVER" given to the Petitioner "DURING" any part of that Custodial Interrogation Videotape Recording that violates the Texas Code of Criminal Procedure Article 38.22, 3(a)(2) states: No oral or sign Language statement of an accused made as a result of an Custodial Interrogation shall be admissible against the accused in a proceeding unless: (2) prior to the statement but [DURING] the Recording the accused is given the warning in subsection (a) of section 2 above and the accused knowingly, intentionally and voluntarily waives any rights set out in the warning, see (Angel Resendez Vs. STATE, 256 S.W. 3d, 315 at 336 (Tex. App. [14 Dist] Houston 2008).

Also, when Police first interrogate a suspect without Miranda Warning, then issue Miranda Warning and interrogate the suspect a second time, the second statement "MUST" be EXCLUDED as well. Petitioner was interviewed by Det. Sewell first in the Custodial Interrogation interview (STATE's Exhibits 17A and 17B), then Det. David Ives and Eric Price was the one's who obtained the Untruthful Written statement. (STATE's Exhibits 29

Most Circuits have adopted to Justice Kennedy's Test in Seibert, which held that when Police deliberately interrogated a suspect without Miranda Warning before a second properly warned interrogation, so that the Police can "USE" the suspect's earlier unwarned confession to "ELICIT" a warned confession, the second statement "MUST" also be EXCLUDED, see, Mo Vs. Seibert, 542 U.S. 600, 15 and at 622 (2004), also, Miranda Vs. Arizona, 384 U.S. 436, 86 S.Ct. 1602, 16 L.Ed. 2d, 674 (1966) at 2619.

The "Factual Dispute" is that, Detective Shawn Sewell made a sworn testimony under oath, to given the Petitioner those Miranda Warning "DURING" the Custodial Interrogation Videotape Recording, that is the "Factual Dispute" that is unresolved Perserved Error, issues see (R.R.V. 3, p. 57, 1-7 (attached), because when the Custodial Interrogation Videotape Recording (STATE's Exhibits 17A and 17B) is reviewed, it will validate the "Probative Facts" that the Petitioner was "NEVER" given any parts of those Miranda Warnings by Detective Shawn Sewell "DURING" the Custodial Interrogation Videotape Recording STATE's Exhibits 17A and 17B, that will prove beyond a reasonable doubt that those Miranda Warning testimony by Detective Shawn Sewell is a false testimony made to the trial Court Jury, that has caused a great deal of harm and "PREJUDICE" to the Petitioner's Rights under the 14th U.S.C. Amendment and 5th Amendment Right, that makes STATE's Exhibits 17A, and 17B and #29 inadmissible evidence in this cause. THE NEED for an Evidentiary Hearing and Discovery to develop those Records to resolve the "Factual Dispute" the Petitioner has adequately presented these claims and issues that are unresolved issues concerning this matter at hand.

PRAYER FOR RELIEF

Petitioner respectfully request this Court to GRANT this Motion Attacking the sentence pursuant to Rule 6 Discovery to develop the Records of the Biological Material DNA Evidence of the Cell Phone Swabs 004 that was withheld Suppressed by the STATE from the Records of the Petitioner's [original] trial that proved to be "Exculpatory DNA Material Evidence" and the production c/copy STEPTOE's Rule 6 Discovery Motion Attacking the Sentence

of the record and transcripts to state's Exhibits 17A and 17B to be transcribed to resolved the "factual dispute" of the unresolved issues concerning these matters of the Petitioner's constitutional Right violations at hand. SO PRAYED!!

Respectfully Submitted
~~Monzelle L. Steptoe #1622644~~
Monzelle L. Steptoe #1622644
French M. Robertson Unit
12071 FM 3522
Abilene Tx 79601

Certificate of Service

I, Monzelle L. Steptoe, declare that a true and correct copy of the foregoing Motion Attacking Sentence Rule 6 Discovery was placed in the French M. Robertson Unit mailbox on December 19, 2017 mail to U.S. Supreme Court Clerk, 1 First Street, N.E., Washington, NC 20543 and the Respondent Attorney General of Texas, P.O. Box 12548-2548 on this 19 day of December 2017.

Respectfully Submitted
~~Monzelle L. Steptoe #1622644~~
Monzelle L. Steptoe #1622644
French M. Robertson Unit
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SUPREME COURT OF THE UNITED STATES

Monzelle L. Steptoe,
Petitioner,
Vs.
Lorie Davis, TUC Director,
Respondent,

No. 17-7017
USDC No. 3:14-CV-381
5th Cir. No. 16-40845

Motion Attacking Sentence Pursuant to Rule 7

Expanding the Record

TO THE HONORABLE SUPREME COURT JUDGES:

Now comes, Monzelle L. Steptoe, Petitioner, Ro-5e, in the above style number and cause, makes this Motion Attacking Sentence pursuant to Rule 7 Expanding the Record and will show this court the following:

I.

Petitioner has adequately presented these genuine issues of material facts of the "factual dispute" that are unresolved issues dealing with Biological Scientific DNA Material Evidence (cell phone swabs 04) that was not made available to the defense counsel before the petitioners [original] trial when defense counsel pursued the petitioners "Solo Defense" to the court.

Defense counsel filed her Motion for Discovery and Inspection on March 31, 2019, nine months before trial that was denied by the trial court.

Defense counsel then filed a Motion for an Independent Examination of the DNA Evidence in the STATE possession on April 30, 2019 that was denied. Such Biological Material DNA Evidence was not made available for the defense counsel before the petitioners [original] trial and the Alvin Police Department Detective Shawn Sewell Voluntarily Confession to the Probative Facts that another Detective obtain DNA Evidence from the Cell Phone Swabs 041 and later submitted it to the Lab for DNA testing.

HOWEVER, the Petitioner has received 2 Affidavits and one sworn

statement 3 years later that supports his allegation of the BRADY Material Evidence was in the STATE's possession at the time Defense counsel requested for such Biological Material Evidence before the Petitioner's original trial. Prosecutor David Smith filed an Affidavit on April 24, 2013 stated: I believed there was no necessity to test all the samples. If I had been aware of any Exculpatory Evidence, I would have turned it over to the defense counsel prior to trial. Prosecutor Smith has taken full responsibility for not testing all the evidence of Biological Material Evidence and was the one who made decision of what is Exculpatory Evidence or not in this case.

Rethaner received an Affidavit of Deputy District Clerk Rachelle Wagner who stated: After diligent search, I found the following biological evidence in the possession of our office, #15, STATE's Exhibit #20A Cell Phone and the condition appears good on April 24, 2013.

copy STEPTOE's Rule 7 Expand the Record, Motion Attacking Sentence
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Officer Roger Brearix of the Alvin Police Department made a sworn under oath chapter 64 form [Validating] the Petitioner claims and issues that the STATE withheld, suppressed "EXCULPATORY DNA Material Swabs 004 of Cell Phone" that was in the possession and control of an agency of the STATE, at the time that the Defense Counsel filed her properly filed Motions for Independent Examination of the DNA Evidence that was not made available to the Petitioner's Defense Counsel before trial.

The request to Expand the Record is "NEEDED" to obtain those potential DNA test results of the Petitioner's Cell Phone Swabs 004 to be compared to the DNA Evidence obtained from the victims vehicle to resolve the "Genuine Factual dispute" of the Petitioner's claims and issues of his "Actual Innocence" for the crime and charges ~~against~~ against his and will establish by a preponderance of the evidence, that the Petitioner did not commit the crime as either a principal or a party to the said crime.

II.

Petitioner has presented substantial genuine issue of the violation of the Texas Code of Criminal Procedures Article 38.22, 3(a)(2) and the Perjury Committed by the Alvin Police Department Detective Shawn Sewell who ~~has~~ had conspired with the STATE Prosecutor Cindy Hall to commit such harmful Error before the trial Court Jury on January 21, 2010. When Prosecutor Cindy Hall intentionally and knowingly question Detective Shawn Sewell about the Custodial Interrogation Videotape Interview pursuant to the Article 38.22, 3(a)(2) states: No oral or sign Language statement of an accused made as a result of an Custodial Interrogation shall be admissible against the accused in a criminal proceeding unless: (2) prior to the statement but [DURING] the Recording the accused is given the warning in subsection (a) of section 2 above and the accused knowingly, intentionally and voluntarily waives any rights set out in the warning, see (Angel Resendez Vs STATE, 256 S.W. 3d 315 at 336 (Tex. App. 114th Dist) Houston 2008). In which, the Petitioner was [NEVER] given any of those Miranda Warning Rights, is why the Petitioner's Defense Counsel filed the Motion to Suppress STATE's Exhibits 17A, 17B and 29 that are (Preserved Errors) see (attached R.R.V. 3, p. 57 and 126) for STATE's Exhibits 17A, 17B and 29, because for such violation by the STATE's Officials, that the Perjury testimony made by Detective Shawn Sewell in the Reporter's Records Volume 3 pages 54, 55, 56 and 57 are not supported by the Custodial Interrogation Videotape Recording STATE's Exhibits 17A and 17B that holds the Probative Facts of the (Actual dispute) copy STATE's Rule 7 Expanding the Records, Motion Attacking the Sentence

The "factual dispute" is that the Petitioner "NEVER" received those Miranda Warning Right "during" that Custodial Interrogation Video Tape Recording STATE's Exhibit 17A and 17B holds the "Probative Value" of the "Unresolved Genuine issue" that the STATE Prosecutor Cindy Hall intentionally and knowingly conspired with the Alvin Police Department Detective Shawn Sewell to commit the perjury on January 21, 2010 under oath before the trial Court Jury, see R.R.V. 3. p. 54, 55, 56 and 57 attached with the preserved Error in R.R.V. 3. p. 126).

The need to Expand the Record and have STATE's Exhibits 17A and 17B transcribed for the Records to validate the such Misconduct by these STATE officials in this cause that has PREJUDICE the Petitioner's Right to a fair trial, but for such Violation of the irreparable injuries has resulted in the conviction of one who is Actually Innocence and this conviction has rendered in a Miscarriage of Justice and to deny the Petitioner the Right to Expand the Record, would result in a continuance fundamental miscarriage of Justice, that will violate the Petitioner's 5th, 6th, 8th and 14th Amendment of the United STATES Constitution herein.

PRAYER FOR RELIEF

Petitioner respectfully request this Honorable Supreme Court to GRANT this Motion Attacking Sentence pursuant to Rule 7 Expanding the Records to resolve the "factual disputes" of the genuine issues that has been adequately presented to this Court of the Constitutional Violation that has occurred in this cause and Remand back to the trial Court for such production of record and live Evidentiary hearing, with a Order of Finding and Facts and Conclusion of Law to enter a judgment of an Acquittal under Actual Innocence and discharge upon such finding from TDCJ-ID. SO PRAYED!!

Respectfully Submitted
Monzelle L. Steptoe #1622644
Monzelle L. Steptoe #1622644
French M. Robertson Unit
12071 FM 3522
Abilene Tx 79601

Certificate of Service

I, Monzelle L. Steptoe, declare that a true and correct copy of the foregoing Motion Attacking Sentence pursuant to Rule 7 Expanding the Record was placed in the French M. Robertson mail box on the 19 day of December 2017, mailed to the U.S. Supreme Court clerk 11 First Street N.E. Washington DC 20543 and the Attorney General of Texas P.O. Box 12548-25-48 on the 19 day of December 2017.

Respectfully Submitted

Monzelle L. Steptoe #1622644
French M. Robertson Unit
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Abilene TX 79601

SUPREME COURT OF THE UNITED STATES

Monzelle L. Steptoe,
Petitioner,

Vs.
Lorie Davis, TNCJ Director,
Respondent.

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No. 17-7017
USDC No. 3:14-CV-381
5th Cir No. 16-40845

Motion Attacking Sentence Pursuant to Rule 8
Evidentiary Hearing

TO THE HONORABLE SUPREME COURT JUDGES:

NOW COMES Monzelle L. Steptoe, Petitioner, Pro-se, in the above style number and cause, Makes this Motion Attacking Sentence pursuant to Rule 8 Evidentiary Hearing and will show this Court the following:

I.

Petitioner has adequately presented these genuine substantial claims and issues of the "Factual dispute" that are unresolved issues dealing with the Scientific Biological Material DNA Evidence of Cell Phone Swabs 004 that was not made available to the Defense Counsel upon her requested properly filed Motions for Discovery and Inspection pursuant to Article 39.14, filed March 31, 2009 that was Denied by the trial Court, see (5th Cir. Records for Motion attached).

Petitioner's Defense Counsel then filed a Motion For Independent Examination of the DNA Evidence on April 20, 2009, that was also denied by the trial Court.

In which the STATE's Prosecutor's intentionally and knowingly withheld, suppress from the Record and the defense Counsel, the Cell Phone Swabs 004 before trial, that "Exculpatory DNA Material Evidence" from the [Original] trial that would have "EXONERATED" the Petitioner, if had been made available to the Defense Counsel upon her properly filed Motion 9 month before trial. In which, on the 22 day of January 2010, Prosecutor David Smith Voluntary Confession to the trial Court Jury, that the STATE had "EVERYTHING" tested and that the DNA didn't come back to this defendant, WE have nothing to hide, WE HAD IT TESTED, see (R.R.V. 4.p. 30.18-23). As you review the STATE's Exhibit #30 Supplemental Serology DNA Report of the Record date November 13, 2009, You will see that swabs 001-004 [are not] made apart of the Record, and that the Petitioner's Cell Phone Swabs 004 [are not] apart of the Record, because the STATE's Prosecutor David Smith intentionally and knowingly withheld suppressed those potential "Exculpatory DNA Swabs 004 of Cell Phone" from the Record of the [Original trial] that would "EXCULPATE" the Petitioner from the blame or the accusation, that would have proven Petitioner to be [NOT GUILTY] of the charges and conviction against the Petitioner.

Petitioner obtained 2 Affidavits and one sworn under oath report form on the 24 day of April 2013. The first Affidavit is by Prosecutor David Smith, the second Affidavit is by Deputy District clerk Bachelie Wagner stated: After diligent search, I found the following "Biological Evidence" in the possession of our office, dated April 24, 2013, see attached Exhibits to 5th Circuit. And a chapter 64 C.C.P. DNA Report form by the Alvin Police Department officer Roger Breau of the Biological Material Evidence #5 transferred to another agency: Evidence Description #001 Benetropine, chlorpromaz, Burprian and 004 silver Motorola phone, sign April 24, 2013 sworn to before a Notary Public that are sworn "Probative Fact" in support of the Petitioner's claims and allegations of the BRADY Rule violation, that has occurred and has "CAUSE" a great deal of harm and "PREJUDICE" to the Petitioner's rights under the 14th Amendment Due Process Rights to a fair trial, due to such irreparable injury has resulted in the conviction of one who is "ACTUALLY INNOCENCE" herein.

II.

Petitioner has attached the trial transcripts of the Reporters Records of the Defense Counsel's time Objection to STATE's Exhibits #17A and 17B, see (R.R. V.3, p. 57, 1-7 attached) and STATE's Exhibits #29 Written Statement see (R.R. V.3, p. 126, 9-20 attached) of the Preserved Errors of the Custodial Interrogation Videotape Recording, STATE's Exhibits 17A and 17B and the Written Statement, STATE's Exhibit 29. Such errors are unresolved "factual dispute" of violations.

Detective Shawn Sewell of the Alvin Police Department intentionally and knowingly committed "PERJURY" to the trial Court Jury on January 21, 2010 about Miranda Warning Rights in which Detective Shawn Sewell testimony to the trial that he advised the Petitioner the entire Miranda Warning during that Recorded Custodial Interrogation Videotape Recording, see attached R.R. V.3, p. 54, 55, 56 and 57. In which is the "factual dispute" concerning the Probative facts of the Texas Code of Criminal Procedure Article 38.22, 3(a)(2) states: No oral or sign Language statement of an accused made as a result of an Custodial Interrogation shall be admissible against the accused in a Criminal proceeding unless: (2) prior to that statement but [DURING] the Recording the accused is given the warning in subsection (a) of section 2 above and the accused knowingly, intentionally and voluntarily waives any rights set out in the warning. see (Angel Resendez Vs. STATE, 256 S.W. 3d, 315 at 336 (Tex. App. [14th Dist.] Houston 2008).

Prosecutor Cindy Hall intentionally and knowingly question Detective Shawn Sewell on January 21, 2010 under oath before the trial and committed a chain conspiracy, in which both STATE official had the opportunity to review the Custodial Interrogation Videotape Recording before trial, (STATE's Exhibits 17A and 17B of those Miranda Warning Rights that was [NEVER] given to copy STEPTOE's Rule 8 Evidentiary Hearing, Motion Attacking Sentence

Petitioner on that Videotape Recording that holds the "Probative Value" of the violation of the Texas Code of Criminal Procedure Article 38.22.3(a)(2) and the Petitioner's 5th And 14th Amendment Rights under the United States Constitution.

However, Prosecutor Cindy Hall asked Detective Shawn Sewell did you review the videotape before this? and Detective Sewell answer Yes, see R.R.V.3, p.54.)

Prosecutor Cindy Hall intentionally and knowingly question Detective Shawn Sewell about those Miranda Warning Rights that they both was fully aware that those Miranda Warning Rights was NEVER given to the Petitioner at any time During that Custodial Interrogation Videotape Recording (STATE's Exhibits 17A and 17B).

If the Petitioner is denied the request for an Evidentiary Hearing to obtain the Probative facts, to show his burden of proof, would render in a continuance miscarriage of Justice that will violate the Petitioner 4th, 5th, 6th, 8th and 14th Amendment to the United STATE's Constitutional Rights herein.

PRAYER FOR BELIEF

Petitioner respectfully request this Honorable Supreme Court to GRANT this Motion Attacking Sentence pursuant to Rule 8 Evidentiary Hearing and also the GRANTING of the Appointment of Counsel pursuant to the Government Code Article 1.051(a), due to the Petitioner is indigent, SO PRAYED!!

Respectfully Submitted
~~Monzelle L. Steptoe~~ #1622644
Monzelle L. Steptoe #1622644
French M. Robertson Unit
12071 FM 3522
Abilene Tx 79601

Certificate of Service

I, Monzelle L. Steptoe declare that a true and correct copy of the foregoing Motion Attacking Sentence pursuant to Rule 8 Evidentiary Hearing was placed in the French M. Robertson Unit mail box on the 19 day of December 2017 Marked to the U.S. Supreme Court Clerk, 1 First Street N.E., Washington DC 20543 and the Attorney General of Texas P.O. Box 12548 - 2548 on the 19 day of December 2017.

Respectfully Submitted
~~Monzelle L. Steptoe~~ #1622644
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cc/copy STEPTOE's Rule 8 Evidentiary Hearing, Motion Attacking Sentence