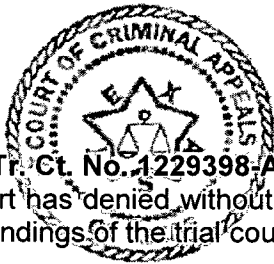


OFFICIAL NOTICE FROM COURT OF CRIMINAL APPEALS OF TEXAS FILE COPY
P.O. BOX 12308, CAPITOL STATION, AUSTIN, TEXAS 78711



7/26/2017

ROBLES, SERGIO

TR. CL. No. 1229398-A

WR-87,062-02

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

Deana Williamson, Clerk

SERGIO ROBLES
JESTER IV UNIT - TDC # 1713356
4 JESTER RD.
RICHMOND, TX 77469

A

Cause No. 1229398-A

EX PARTE

§

IN THE 177th DISTRICT

§

COURT OF

SERGIO ROBLES,
Applicant

§

HARRIS COUNTY, TEXAS

**STATE'S PROPOSED FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND ORDER**

Having reviewed the documents filed in cause number 1229398-A and the official trial court records of the challenged conviction and the Court finds that there are no controverted, previously unresolved facts material to the legality of the applicant's confinement which require an evidentiary hearing and recommends that the relief requested be denied for the following reasons:

FINDINGS OF FACT

1. The Court finds that the applicant is confined pursuant to the judgment and sentence of the 177th District Court, Harris County, Texas, where the applicant pled guilty to the felony offense of murder. The applicant pled to murder after the State reduced the charge from capital murder. The Court assessed the applicant's punishment, pursuant to a plea agreement, at forty (40) years in the Texas Department of Criminal Justice – Correctional Institutions Division.
2. The applicant was initially indicted for the felony offense of capital murder because the applicant had shot and killed Pasadena Police Officer Jesse Hamilton on August 21, 2009.
3. The Court finds that the applicant did not directly appeal his conviction.
4. The applicant was represented by Ms. Katherine Scardino and Mr. Kelly Case.

FILED

Chris Daniel
District Clerk

APR 13 2017 4:10 pm

Time:

Harris County, Texas

By

Deputy

27/994
993

13/999

5. On May 19, 2010, the trial court ordered the applicant to be evaluated for sanity. *See State's Exhibit B, Order Granting Motion for Psychiatric Examination: Sanity, cause no. 1229398 & 1229399.*
6. The Court, finds based on the clerk's record, that Scardino filed a Notice of Intent to Raise Insanity Defense on October 11, 2010. *See State's Exhibit F, cause no. 1229398 & 1229399.*
7. The applicant was evaluated by three experts before he entered his plea. The first expert, Kristin Compton, Ph.D., conducted a diagnostic interview on December 15, 2009, and determined that the applicant was in the middle of a psychotic break at the time of the offense. *See State's Exhibit C, Psychological Evaluation – Sergio Robles, p. 9.*
8. Ramon A. Laval, Ph.D., evaluated the applicant on June 21, 2010, and concluded that the results indicated that the applicant did not meet the criteria for the insanity defense. *See State's Exhibit D, Sanity Evaluation, p. 4.*
9. Mark Moeller, M.D., evaluated the applicant on July 14, 2010, and July 16, 2010, and determined that the applicant met the criteria at the time of the act for being insane. *See State's Exhibit E, Forensic Psychiatric Evaluation – Sergio Robles, p. 5.*
10. The applicant entered his plea of guilty on May 12, 2011. The plea was recorded by a court reporter and it demonstrates that the applicant entered into his plea voluntary.
11. The Court finds, based on the reporter's record, that Scardino made a statement on the record concerning the applicant's potential insanity defense and the applicant's decision to plead guilty.
12. The Court finds, based on the reporter's record, that Scardino first discussed the cooperation between the defense and the State and also talked about the competing opinions of the experts (I R.R. at 13-14).
13. Scardino then mentioned how the applicant himself wrote certain documents that likely would have undercut an insanity defense and that the State was aware of the documents (I

R.R. at 14).

14. The Court finds, based on the reporter's record, that Scardino and her co-counsel recommended that the applicant enter a plea of guilty after reviewing all of the evidence, experts' reports, having discussions with legal colleagues, and talking with the applicant and the applicant's family (I R.R. at 14-15).
15. The Court finds that the applicant stated on the record that he consented to the advice and opinion of his attorneys and that he agreed to Scardino's rendition (I R.R. at 16).
16. The Court finds that the applicant has offered no credible evidence indicating that his attorneys provided deficient performance in their representation.
17. The Court finds that the applicant has offered no credible evidence indicating that the State engaged in prosecutorial misconduct.

CONCLUSIONS OF LAW

1. The applicant has failed to prove by a preponderance of the evidence that counsel's representation fell below an objective standard of reasonableness and a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different. *Mitchell v. State*, 68 S.W.3d 640, 642 (Tex. Crim. App. 2002); *Narvaiz v. State*, 840 S.W.2d 415, 434 (Tex. Crim. App. 1992) (citing *Strickland v. Washington*, 466 U.S. 668, 688 (1984)).
2. The totality of the representation afforded Applicant was sufficient to protect his right to reasonably effective assistance of trial counsel.
3. Applicant fails to show 1) the State failed to disclose evidence; 2) the evidence was favorable to the applicant; and 3) the evidence was material, such that there is a reasonable probability that, had the evidence been disclosed to the defense, the outcome of the trial would have been different. *Ex parte Kimes*, 872 S.W.2d 700, 702-03 (Tex. Crim. App. 1993).

4. In all things, Applicant fails to show that his conviction and sentence were improperly obtained.

Accordingly, it is recommended to the Texas Court of Criminal Appeals that the requested habeas relief be denied.

ORDER

THE CLERK IS ORDERED to prepare a transcript of all papers in cause number 1229398-A and transmit same to the Court of Criminal Appeals as provided by TEX. CODE CRIM. PROC.

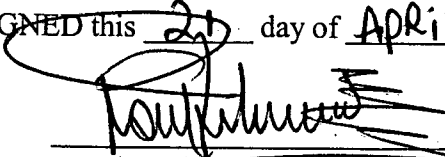
ANN. art. 11.07 § 3. The transcript shall include certified copies of the following documents:

1. the application for writ of habeas corpus, and any additional pleadings filed by the applicant;
2. State's answer and all attachments;
3. the Court's Findings & Order;
4. the indictment, judgment and sentence, and docket sheets in cause number 1229398 (unless they have been sent to the Texas Court of Criminal Appeals pursuant to a post-conviction writ of habeas corpus order);
5. all attorney fees expense claim (aka vouchers) submitted by Katherine Scardino in cause numbers 1229398 & 1229399;
6. the reporter's record of the plea in cause numbers 1229398 & 1229399.

THE CLERK is further ORDERED to send a copy of this order to the applicant, Sergio Robles, # 1713356 – Jester IV Unit, 4 Jester Rd, Richond, TX 77406; and to Olga Garcia, 2809 E. Sam Houston Pkwy, Pasadena, TX 77503-4015; and to the State, Assistant District Attorney Andrew J. Smith, Harris County District Attorney's Office, 1201 Franklin Suite 600, Houston, Texas 77002.

By the following signature, the Court adopts the State's Proposed Findings of Fact, Conclusions of Law and Order in cause number 1229398-A .

SIGNED this 21 day of APRIL, 2017.



JUDGE PRESIDING

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9/15/2017

ROBLES, SERGIO

Tr. Ct. No. 1229398-A

WR-87,062-02

This is to advise that the applicant's suggestion for reconsideration has been denied without written order.

Deana Williamson, Clerk

SERGIO ROBLES
JESTER IV UNIT - TDC # 1713356
4 JESTER RD.
RICHMOND, TX 77469

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