

**CAPITAL CASE**

No. \_\_\_\_\_

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**IN THE SUPREME COURT OF THE UNITED STATES**

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**ROSENDO RODRIGUEZ,**

*Petitioner,*

-v-

**LORIE DAVIS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL  
JUSTICE, INSTITUTIONAL DIVISION,**

*Respondent.*

On petition for writ of certiorari to the  
United States Court of Appeals for the Fifth Circuit

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**Appendix**

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**Appendix Description**

Appendix A - *Rodriguez v. Davis*, 2017 U.S. App. LEXIS 9068 (5th Cir. 2017)

Appendix B – Fifth Circuit’s Opinion (March 23, 2018)

Appendix C – Whistleblower lawsuit

**CERTIFICATE OF SERVICE**

I hereby certify that, on the 26th day of March 2018, a true and correct copy of this document was emailed to:

AAG Tomee Heining  
Office of the Attorney General  
Postconviction Litigation Division  
P.O. Box 12548, Capitol Station  
Austin, TX 78711-2548



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Seth Kretzer

Tab A

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT**

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No. 16-70020

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United States Court of Appeals  
Fifth Circuit

**FILED**

May 24, 2017

Lyle W. Cayce  
Clerk

ROSENDO RODRIGUEZ, III,

Petitioner - Appellant

v.

LORIE DAVIS, DIRECTOR, TEXAS DEPARTMENT OF  
CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION,

Respondent - Appellee

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Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 5:13-CV-233

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Before JONES, SMITH, and DENNIS, Circuit Judges.

EDITH H. JONES, Circuit Judge:\*

A jury found Rosendo Rodriguez, III, guilty and sentenced him to death for murdering a pregnant woman after he sexually assaulted her. After exhausting his state remedies, Rodriguez filed a federal habeas petition under 28 U.S.C. § 2254, raising, *inter alia*, ineffective assistance of counsel claims. In a 96-page opinion, the district court denied the petition and dismissed it with prejudice. Rodriguez now seeks a certificate of appealability (COA) under 28 U.S.C. § 2253(c). For the following reasons, we **DENY** the COA application.

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\* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

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## **BACKGROUND**

The district court summarized the facts as follows:

### **I. Pretrial**

On September 13, 2005, workers using heavy equipment to spread and compact garbage in a Lubbock city landfill found the body of Summer Baldwin in a suitcase. Baldwin, a prostitute, had been a witness in a federal counterfeiting case, which triggered FBI involvement in the investigation of her death. Financial records obtained via federal grand jury subpoena revealed that Rodriguez's debit card was used to purchase an identical suitcase at Walmart the day before. The store's surveillance video showed that Rodriguez matched the description of the man last seen with Baldwin alive. Hotel and bank records indicated that Rodriguez's debit card was also used to rent a hotel room in Lubbock under the name "Thomas" Rodriguez. Based on the foregoing information, Rodriguez was arrested at his parents' home in San Antonio.

Rodriguez retained Albert Rodriguez ("Albert") as counsel. Albert is not related to Rodriguez but was an acquaintance of Rodriguez's father, a well-known criminal defense attorney from Wichita Falls. Three weeks after his arrest, Rodriguez gave a recorded statement to the police, with Albert present, admitting that he had engaged in consensual sex with Baldwin but killed her in self-defense after she attacked him with a knife. The ongoing police investigation also linked Rodriguez to the disappearance of 16-year-old Joanna Rogers, who had been missing for more than a year.

In the summer of 2006, Rodriguez negotiated a plea bargain with the assistance of new counsel, Jeff Blackburn. Rodriguez agreed to plead guilty to Baldwin's murder and disclose his involvement in Rogers's murder. If his information could be corroborated by the recovery of Rogers's body, the State would reduce the capital murder charge to murder, offer a sentence of life imprisonment, and grant Rodriguez immunity from prosecution for Rogers's murder. Rodriguez confessed to Rogers's murder, and her body, like Baldwin's, was found in a suitcase in the Lubbock city landfill.

The plea agreement did not go forward as planned, however. On the scheduled day in October of 2006, Mr. Blackburn regretfully informed the trial court of a bizarre series of events, the

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likes of which he had never encountered in his law practice. For the preceding twenty-four hours, Rodriguez had maintained that he did not understand anything he was being told. Rodriguez told the trial judge he did not understand his questions. As a result, the plea did not go forward, Mr. Blackburn withdrew from the case, and the State gave notice of its intent to seek the death penalty. Richard Wardroup and Fred Stangl were appointed as new counsel. The trial court granted a change of venue because of publicity surrounding the search for Rogers's body; in March of 2008, the parties proceeded to trial.

## II. Trial

The prosecution alleged two different theories of capital murder: (1) intentionally or knowingly causing Baldwin's death while in the course of committing or attempting to commit aggravated sexual assault, and (2) intentionally or knowingly causing the death of more than one person in the same criminal transaction, specifically, Baldwin and her child in utero. *See* Tex. Penal Code Ann. § 19.03(a)(2), (7). [Footnote omitted.] The State presented evidence showing that Rodriguez had been in Lubbock for training with the United States Marine Corps Reserve when he picked up Baldwin in the early morning hours of September 12, 2005, and took her to his hotel room where he beat, strangled, and sexually assaulted her. He then purchased the suitcase, placed her body in it, and threw it in a dumpster. The defense argued that the sex was consensual, that Rodriguez had no knowledge of the pregnancy, and that his Marine combat instincts took over and he killed Baldwin accidentally in self-defense after she wielded a knife at him. The jury returned separate guilty verdicts on each theory.

At the punishment phase, the State introduced evidence of five other sexual assaults committed by Rodriguez and a misdemeanor theft charge for which he had served probation. The jurors received evidence connecting Rodriguez to the disappearance of Rogers, but they did not receive his confession to her murder. The defense introduced evidence and argument that Rodriguez could safely serve a life sentence in prison, that Rodriguez was a respectful, intelligent person, and that Rodriguez grew up in a home with an abusive, domineering, alcoholic father. The jury answered two special issues in a way that required a

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death sentence under Texas law. *See* Tex. Code Crim. Proc. Ann. art. 37.071, §§ 2(b)(1) and (e)(1).

### III. Post-conviction proceedings

The trial judge appointed attorney J.R. Wall on direct appeal and Paul Mansur as state habeas counsel. Mr. Wall filed a motion for new trial that the trial court denied after a live hearing, and then filed a brief raising forty-two claims on appeal. The Texas Court of Criminal Appeals (“CCA”) affirmed the conviction. *Rodriguez v. State*, No. AP-75901, 2011 WL 1196871, at \*1 (Tex. Crim. App. May 4, 2011) (not designated for publication), *cert. denied*, 132 S. Ct. 814 (2011).

Mr. Mansur filed a state habeas application raising twenty-one grounds for relief. After a six-day hearing, the convicting court made written findings and conclusions recommending that relief be denied. The CCA reviewed the record, adopted the lower court’s findings and conclusions, and denied habeas relief. *Ex parte Rodriguez*, No. WR-78127-01, 2013 WL 1920737, at \*1 (Tex. Crim. App. May 8, 2013). Rodriguez then filed his amended federal petition raising twenty-six claims for relief. All but one of these claims has been adjudicated on the merits in state court.

After a hearing, the district court denied Rodriguez’s petition and dismissed it with prejudice. The district court also denied Rodriguez’s request for a COA. Rodriguez now renews his request for a COA in this court.

### STANDARD OF REVIEW

As a state prisoner whose habeas petition has been denied by a federal district court, “[f]ederal law requires that he first obtain a COA from a circuit justice or judge.” *Buck v. Davis*, 137 S. Ct. 759, 773 (2017) (citing 28 U.S.C. § 2253(c)(1)). “A COA may issue ‘only if the applicant has made a substantial showing of the denial of a constitutional right.’” *Id.* (quoting 28 U.S.C. § 2253(c)(2)). Unless and until he secures a COA, this court “may not rule on the merits of his case.” *Id.* (citing *Miller–El v. Cockrell*, 537 U.S. 322, 336 (2003)).

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The COA inquiry is “limited” and “not coextensive with a merits analysis.” *Id.* at 773–74. “[T]he only question is whether the applicant has shown that ‘jurists of reason could disagree with the district court’s resolution of his constitutional claims or that jurists could conclude the issues presented are adequate to deserve encouragement to proceed further.’” *Id.* at 773 (quoting *Miller–El*, 537 U.S. at 327). Put otherwise, at this stage, the court must make only “an initial determination whether a claim is reasonably debatable” and nothing more. *Id.* at 774. That determination must be made without “full consideration of the factual or legal bases adduced in support of the claims.” *Id.* at 773 (quoting *Miller–El*, 537 U.S. at 336). In conducting the inquiry, this court “must be mindful of the deferential standard of review the district court applied to [the habeas petition] as required by the AEDPA.” *Williams v. Stephens*, 761 F.3d 561, 566 (5th Cir. 2014) (quoting *Miniel v. Cockrell*, 339 F.3d 331, 336 (5th Cir. 2003)) (alteration in original). That standard required Rodriguez to prove that the state court’s adjudication “resulted in a decision that was contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States” or “resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented in the State court proceeding.” *Id.* (quoting 28 U.S.C. § 2254(d)). Finally, “any doubt as to whether a COA should issue in a death-penalty case must be resolved in favor of the petitioner.” *Pippin v. Dretke*, 434 F.3d 782, 787 (5th Cir. 2005).

**DISCUSSION**

Rodriguez advances four claims for relief. Each claim asserts that Rodriguez’s counsel was ineffective, although one claim includes additional constitutional violation allegations and another involves procedural default. Because ineffective assistance of counsel claims comprise most of Rodriguez’s

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appeal, we set out the principles governing these claims before addressing each claim in turn.

### **I. Ineffective Assistance of Counsel**

To establish that he was denied constitutionally effective assistance of counsel, Rodriguez must show that (1) his counsel rendered deficient performance, and (2) his counsel's actions resulted in prejudice. *E.g.*, *Strickland v. Washington*, 466 U.S. 668, 687–88 (1984). Rodriguez must prove both prongs, and the failure to prove either one will defeat the claim. *Id.* “In determining whether counsel's performance was deficient, courts must ‘indulge a strong presumption that counsel's conduct falls within the wide range of reasonable professional assistance; that is, the defendant must overcome the presumption that, under the circumstances, the challenged action might be considered sound trial strategy.’” *Williams v. Stephens*, 761 F.3d 561, 567 (5th Cir. 2014) (quoting *Strickland*, 466 U.S. at 689)). Judicial scrutiny of counsel's conduct “must be highly deferential” and avoid “the distorting effect of hindsight.” *Id.* (quoting *Strickland*, 466 U.S. at 689–90). As to prejudice, Rodriguez must show “a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different.” *Id.* (quoting *Strickland*, 466 U.S. at 694). “A reasonable probability is a probability sufficient to undermine confidence in the outcome.” *Hinton v. Alabama*, 134 S. Ct. 1081, 1089 (2014) (quoting *Strickland*, 466 at 694). “The likelihood of a different result must be substantial, not just conceivable.” *Harrington v. Richter*, 562 U.S. 86, 112 (2011). And the deferential *Strickland* standard is more deferential still—indeed, “‘doubly’ so”—when it is applied, as in this case, in tandem with section 2254(d). *Id.* at 105 (quoting *Knowles v. Mirzayance*, 556 U.S. 111, 123 (2009)).

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## II. Rodriguez's Claims

### A. Failure to Investigate and Present Mitigating Evidence

Rodriguez's "core contention" is that "trial counsel were ineffective for failing to: 1) conduct a more thorough mitigation investigation; 2) present additional mitigation evidence relating to incidents of abuse, violence and dysfunction in the Rodriguez family; 3) investigate his father's medical and mental-health records; and 4) present non-family witnesses who would corroborate the Rodriguez family's testimony about his father's abuse, alcoholism, and mental health issues." The district court found that the state court did not unreasonably apply *Strickland* in rejecting these arguments.

In his request for a COA, Rodriguez proffers several purported "dimensions of debatability" regarding the district court's conclusion that the state court did not unreasonably apply *Strickland*. First, he says that the district court's conclusion is debatable because the court incorrectly applied the law. He emphasizes the district court's statement that his claim came down to "matters of degree: Did counsel talk to enough witnesses about abuse? Did counsel interview the family members enough times under ideal circumstances? Did counsel extract enough details of the defendant's upbringing?" In his view, the court's statement improperly "avers that the fact that Rodriguez's defense team adduced some mitigation evidence pretermits the inquiry as to whether or not the investigation was sufficient." *Cf. Sears v. Upton*, 561 U.S. 945, 955 (2010) ("We certainly have never held that counsel's effort to present *some* mitigation evidence should foreclose an inquiry into whether a facially deficient mitigation investigation might have prejudiced the defendant.").

Rodriguez's argument is puzzling in several respects. To begin with, he complains of how the district court characterized his claim, but the court's characterization hewed closely to this court's precedents. Courts "must be

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particularly wary of ‘argument[s] [that] essentially come[] down to a matter of degrees. Did counsel investigate enough? Did counsel present enough mitigating evidence? Those questions are even less susceptible to judicial second-guessing.’” *Dowthitt v. Johnson*, 230 F.3d 733, 743 (5th Cir. 2000) (quoting *Kitchens v. Johnson*, 190 F.3d 698, 703 (5th Cir. 1999)) (alterations in original). Rodriguez’s demands for a “more thorough investigation,” “additional mitigation evidence,” and corroborating testimony are all arguments that come down to matters of degree—arguments that courts “must be particularly wary” of entertaining. In addition, Rodriguez quotes only the district court’s summation of its 12-page analysis of trial counsel’s comprehensive mitigation case. The district court carefully assessed each of Rodriguez’s arguments and explained why the state court did not unreasonably conclude that Rodriguez failed to overcome the presumption of his counsel’s competence. Notably, Rodriguez does not explain how the district court’s rejection of any particular argument is debatable; instead, he summarily states that there were “crucial failures by counsel in their investigation.” In light of the district court’s faithfulness to Fifth Circuit precedent and detailed analysis of the mitigation case, reasonable jurists could not debate the district court’s conclusion.

Second, Rodriguez argues that reasonable jurists could debate the district court’s conclusion because the district court itself noted that there was conflicting evidence. But Rodriguez mischaracterizes the district court’s statements. The court indeed stated that “the details of abuse and the family history conflicted in many ways” and that “the testimony among the habeas witnesses is rife with conflict[.]” In context, however, the district court made those observations in its prejudice analysis to show how unpersuasive and potentially harmful the proposed additional evidence would be, not to show that the issue of prejudice was debatable. In the court’s words, the state court

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reasonably found no prejudice because “[t]he new mitigating evidence would barely have altered the ‘sentencing profile’ presented to the jury and may have even been harmful.” Rodriguez does not attack this specific conclusion in the prejudice analysis, nor could reasonable jurists debate it.

Finally, in a one-sentence argument, Rodriguez asserts that, “[a]cross the country, courts have found insufficient mitigation investigations into abusive family lives in circumstances less egregious than [sic] Rodriguez suffered.” But, of the cases that Rodriguez cites in support of that statement, only one is from this circuit and all concerned obviously deficient mitigation work. *See Escamilla v. Stephens*, 749 F.3d 380, 392–93 (5th Cir. 2014) (among other deficiencies, counsel failed to hire a mitigation specialist, failed to apprise the defense expert of the petitioner’s background and social history, and “never presented the jury with information regarding the disadvantages, instability, and trauma that [the petitioner] actually experienced as a child”); *Cauthern v. Colson*, 736 F.3d 465, 483–87 (6th Cir. 2013) (counsel failed to investigate and present evidence of family abuse); *Hooks v. Workman*, 689 F.3d 1148, 1203–04 (10th Cir. 2012) (among other deficiencies, counsel “made no attempt” to put on evidence of the petitioner’s “life circumstances and his tragic, chaotic upbringing”).

In contrast, Rodriguez’s counsel’s mitigation case contained none of those deficiencies. The district court thoroughly canvassed the mitigation effort, which included the following: counsel retained a mitigation specialist and worked with a neuropsychologist, a psychiatrist, and a forensic pathologist. The mitigation specialist interviewed Rodriguez’s father, mother, and two sisters, and all four family members testified at trial. The mitigation specialist also interviewed Rodriguez’s preschool teacher, four college acquaintances, a high school coach, detention officers, a jail librarian, and a Naval Academy contact. The mitigation specialist’s report catalogued Rodriguez’s family’s

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history of depression, and his father's bipolar disorder, tyrannical behavior, and alcohol and pain-medication abuse. As the district court noted, "[t]his is not a case where trial counsel overlooked abusive conduct, mental illness, and alcoholism in [Rodriguez's father]." Indeed, counsel presented evidence that his father was "an abusive alcoholic," and counsel "argued those facts in mitigation." This case, therefore, is quite different from the cases that Rodriguez cites, and, other than the sentence quoted above, he makes no argument to the contrary.

Reasonable jurists could not debate the district court's conclusion that the state court did not unreasonably apply *Strickland* in finding no deficiency or prejudice in counsel's mitigation effort.

**B. Unconstitutionally Obtained Confession**

In his second issue, Rodriguez makes two claims regarding whether his confession was unconstitutionally obtained. First, he generally asserts that he did not confess freely, knowingly, intelligently, or voluntarily in violation of his rights under the Fifth, Sixth, and Fourteenth Amendments. Second, he asserts that his initial counsel, Albert, provided ineffective assistance by not thoroughly investigating the evidence in his case before allowing Rodriguez to confess. The arguments are interrelated, however, because his first argument rests on the idea that "if a defendant is denied counsel during a subsequent police interrogation, any confession is presumed involuntary." His theory is that Albert provided ineffective assistance of counsel, which effectively denied him counsel before and during his confession which, in turn, rendered his confession involuntary. For that reason, Rodriguez hinges both of his claims on whether "Albert's representation in this regard is deemed to be ineffective." The district court held that the state court reasonably found that counsel was not ineffective and that, as a corollary, Rodriguez confessed freely, knowingly, intelligently, and voluntarily.

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Reasonable jurists could not debate the district court's conclusion that the state court reasonably found no deficiency or prejudice under *Strickland*. As to deficiency, *Strickland* makes clear that "[t]he reasonableness of counsel's actions may be determined or substantially influenced by the defendant's own statements or actions." 466 U.S. at 691. Indeed, counsel's actions are "usually based" on "information supplied by the defendant," and "what investigation decisions are reasonable depends critically on such information." *Id.* Here, the record shows that Rodriguez was adamant about speaking to the police. In his initial meetings with Albert, Rodriguez demanded to speak to the police to establish that he acted in self-defense. He also asked Albert to give to the police knives that Rodriguez had taken from Baldwin to prove he acted in self-defense. Albert warned Rodriguez that the police also suspected his involvement in the Rogers disappearance, yet Rodriguez persisted and Albert acquiesced. Moreover, in the interview itself, Rodriguez confirmed no fewer than five times that he had wanted to speak with the police and that he was doing so "completely of [his] own volition." For his part, Albert knew that the police had a strong case against Rodriguez because he had interviewed several witnesses, met with the lead detective, visited the hotel where the crime occurred, and viewed the police reports and surveillance footage. He knew the importance of raising a self-defense theory sooner rather than later. And he knew that Rodriguez had some bruises and a scratch, which at least facially corroborated Rodriguez's self-defense story. Finally, the fact that police offered Rodriguez a plea deal—from which he later backed out—demonstrates the reasonableness of Albert's strategy. In light of these circumstances, reasonable jurists could not debate the district court's conclusion that the state court reasonably found that Albert's assistance and investigation were not deficient and that the confession was constitutionally obtained.

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Even assuming deficiency, however, the same would be true of the prejudice analysis. The district court recounted some of the strong evidence against Rodriguez even without his confession: proof that he rented the hotel room where Baldwin's blood was found; security camera footage showing him purchasing gloves and a suitcase and placing them in his rental truck; his internet searches about Baldwin's murder following the crime; and evidence matching his DNA to that found on Baldwin. Further, if anything, the admission of his confession helped, rather than hurt, him. As the district court noted, "the complained-of police statement allowed Rodriguez to argue the following facts to the jury without having to testify: (1) Baldwin used a knife; (2) he acted in self-defense; (3) he was unaware of Baldwin's pregnancy; (4) the sex was consensual; and (5) (in conjunction with the autopsy report) Baldwin used crack cocaine." Reasonable jurists thus could not debate the district court's ruling that the state court reasonably found that Albert's assistance did not prejudice Rodriguez.

**C. Failure to Object to Evidence on Relevance Grounds**

Rodriguez asserts that his trial counsel was ineffective for not objecting on relevance grounds to two photographs of Summer Baldwin's unborn child. As with the other claims, the district court held that the state court reasonably applied *Strickland* in rejecting this claim.

As explained above, one of the State's capital-murder theories was that Rodriguez had committed a double-murder. See Tex. Penal Code § 19.03(a)(7)(A) (defining capital murder in part as murder where "the person murders more than one person . . . during the same criminal transaction").<sup>1</sup> At

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<sup>1</sup> The Texas Penal Code defines "person" in part as "an individual" and, in turn, defines "individual" as "a human being who is alive, including an unborn child at every stage of gestation from fertilization until birth." Tex. Penal Code § 1.07(a)(26), (38). It also defines "[d]eath" as including, "for an individual who is an unborn child, the failure to be born alive." *Id.* § 1.07(a)(49).

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the time of Rodriguez's trial, CCA precedent held that the "transferred intent" doctrine applied to multiple-murder capital prosecutions where an unintended victim and the intended victim are both killed. *See Norris v. State*, 902 S.W.2d 428, 437–39 (Tex. Crim. App. 1995). Thus, although there was no evidence that Rodriguez knew Baldwin was pregnant (and he claimed he did not know), Rodriguez could be liable under the double-murder capital theory so long as he intended to kill Baldwin. The State offered two photographs of Baldwin's child in utero in support of the double-murder capital theory. Rodriguez's counsel vigorously objected under Texas Rule of Evidence 403 that the photographs were prejudicial and inflammatory; the district court voiced concerns about the photographs but overruled the objections.

After Rodriguez's trial, however, the CCA reversed course and held that the "transferred intent" doctrine may be used in the multiple-murder context "only if there is proof of intent to kill the same number of persons who actually died[.]" *See Roberts v. State*, 273 S.W.3d 322, 331 (Tex. Crim. App. 2008). Absent evidence that Rodriguez was aware that Baldwin was pregnant, there could be no evidence that he had formed the requisite intent to kill two persons. As a result, he could not be convicted under the double-murder capital theory after *Roberts*. The State conceded as much when it abandoned its defense of that theory on Rodriguez's direct appeal. *See Rodriguez*, 2011 WL 1196871, at \*5.

Highlighting *Roberts*, Rodriguez now argues that his trial counsel was ineffective for not objecting to the photographs on *relevance* grounds. According to Rodriguez, "[i]t is totally counterintuitive for counsel to object at trial to both the unconstitutionality of the fetus murder count and the highly prejudicial nature of the autopsy photographs under Rule 403, but to then fail to raise an objection as to what relevance the photographs had to either the guilt/innocence or punishment trial." Contrary to Rodriguez's suggestion,

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however, it would have been counterintuitive for Rodriguez's counsel to object to the relevancy of the photographs. Under pre-*Roberts* law, those photographs were not only relevant but were also essential to the State's double-murder capital theory. Rodriguez essentially proposes that his counsel's assistance be deemed deficient and prejudicial for counsel's "failure" to lodge a then-frivolous objection and anticipate a change in the law. Reasonable jurists could not debate the district court's conclusion that the state court did not unreasonably apply *Strickland* in rejecting Rodriguez's proposals. See, e.g., *United States v. Fields*, 565 F.3d 290, 294 (5th Cir. 2009) (stating that defense counsel has no general duty to anticipate changes in the law); *Koch v. Puckett*, 907 F.2d 524, 527 (5th Cir. 1990) ("This Court has made clear that counsel is not required to make futile motions or objections.").

**D. Failure to Challenge Whether a Trash Compactor, Not Rodriguez, Caused Baldwin's Blunt-Force Injuries**

Rodriguez asserts that his trial counsel was ineffective for failing to challenge whether Rodriguez was the source of Baldwin's blunt-force injuries.

As an initial matter, Rodriguez concedes that, because his state habeas counsel did not raise this claim, the claim is procedurally defaulted unless he can establish cause to excuse the default under *Martinez v. Ryan*, 566 U.S. 1 (2012) and *Trevino v. Thaler*, 133 S. Ct. 1911 (2013). A prisoner may establish cause for a default of an ineffective assistance claim where (1) the state courts did not appoint counsel in the initial-review collateral proceeding for a claim of ineffective assistance at trial, or (2) appointed counsel in the initial-review collateral proceeding, where the claim should have been raised, was ineffective under *Strickland*. *Martinez*, 566 U.S. at 14. Further, "[t]o overcome the default, a prisoner must also demonstrate that the underlying ineffective-assistance-of-trial-counsel claim is a substantial one, which is to say that the prisoner must demonstrate that the claim has some merit." *Id.* In *Trevino*,

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the Supreme Court held that “the *Martinez* exception applies in [the Texas] procedural regime.” 133 S. Ct. at 1915.

The district court held that because Rodriguez did not satisfy the *Martinez* exception, the claim is procedurally defaulted. Because the district court rejected this claim on procedural grounds, this court must consider whether “jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling.” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

Rodriguez claims that his state habeas counsel and trial counsel were both ineffective for failing to challenge “whether Rodriguez simply choked [sic] Baldwin during a struggle, in which he claimed he acted in self-defense, or instead brutally and repeatedly beat her prior to dumping her body.” Rodriguez says trial counsel’s “failure” to argue that a trash compactor caused Baldwin’s injuries “all but gutted his self defense case[.]” In his view, “[c]ounsel’s failure to shed light on the possibility that Rodriguez choked [sic] Baldwin in self-defense, and thereby letting the jury presume that her multiple trauma injuries were inflicted over the course of a long and horrific beating, most certainly prejudiced the outcome of this case.” He also contends that “[s]tate habeas counsel’s failure to spot and develop this instance of ineffective assistance of trial counsel defaulted this claim and prejudiced the outcome of this case contrary to the *Martinez* holding.”

Reasonable jurists could not debate the district court’s holding that Rodriguez did not establish cause to excuse the default and demonstrate that his underlying claim has “some merit.” *Martinez*, 566 U.S. at 14. Beginning with Rodriguez’s trial counsel, Rodriguez’s argument that counsel effectively gutted his self-defense claim appears to have a serious flaw: he had no self-defense claim as to the capital murder charge involving aggravated sexual

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assault on which the jury convicted him. The jury charge, which Rodriguez never challenged, plainly states, “You are not to consider the law of self-defense as to capital murder. The law of self-defense applies only to the offense of murder as to this charge.” This explains why, when arguing in closing against the capital theory involving aggravated sexual assault, Rodriguez’s trial counsel pressed his only real defense to this charge, that Rodriguez and Baldwin engaged in consensual sex, which would not constitute aggravated sexual assault. *See* Tex. Penal Code § 22.021(a)(1)(A)(i)–(iii) (requiring the absence of consent). Rodriguez does not explain how his counsel could be ineffective for allegedly gutting a defense that did not exist as to the capital charge on which he was convicted, especially when counsel advanced the defense that did exist.

Beyond that problem, there were obvious reasons why attempting to blame a trash compactor for Baldwin’s blunt-force injuries was inadvisable. To begin with, that argument would not explain all of Baldwin’s horrific injuries. Rodriguez’s counsel retained a pathologist who reported that the “very good” forensic work on Baldwin’s injuries showed it could not “reasonably be argued that there wasn’t sexual assault” or that Rodriguez acted in self-defense. Thus, that a trash compactor caused the blunt-force injuries would not explain the internal sexual assault injuries that the pathologist confirmed.

Second, if Rodriguez’s counsel argued that a trash compactor caused the blunt-force injuries, he would effectively concede that Baldwin had been buried and compacted alive. This follows from expert testimony at trial that humans must have “continued cardiac output” to produce bruises like the bruises found on Baldwin’s body. If the trash compactor caused the bruises, then it would have done so while she was alive. That concession would contradict Rodriguez’s statement in his confession that Baldwin had no pulse before he placed her in the suitcase. It would also contradict his general position that

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he killed her in self-defense. Finally it would exacerbate the already-gruesome nature of Baldwin's death.

As the district court stated, even if Rodriguez acted in self-defense at some point, there is "no question that Rodriguez left her in the trash dumpster, the foreseeable and perhaps intended result of which was that she would be compacted like trash." There was no prejudice from counsel's approach. In sum, reasonable jurists could not debate the district court's conclusion that Rodriguez failed to show "some merit" to his underlying claim that his trial counsel's assistance was deficient and prejudicial under *Strickland* for not pursuing the trash-compactor argument.

In the same vein and for the same reasons, reasonable jurists could not debate the district court's holding that Rodriguez did not establish cause in the form of state habeas counsel's ineffectiveness for the purported failure to uncover and pursue the trash-compactor argument. Perhaps more notable here, however, is the incredible effort that state habeas counsel put into Rodriguez's state habeas petition: arguments and exhibits supporting 21 grounds for relief contained in 235 pages and tested and supplemented during a 6-day evidentiary hearing. Given the problems with advancing a trash-compactor argument and the massive state habeas effort, reasonable jurists could not debate the district court's conclusion that Rodriguez did not show cause—*i.e.*, that state habeas counsel was ineffective—to overcome the procedural default on this ineffective assistance claim.

For all of these reasons, reasonable jurists could not debate the district court's ruling that this ineffective assistance claim is procedurally barred.

### CONCLUSION

For the foregoing reasons, Rodriguez's COA request is **DENIED**.

Tab B

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT**

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No. 18-10337

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In re: ROSENDO RODRIGUEZ, III,

Movant

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**ORDER**

Before JONES, SMITH, and DENNIS, Circuit Judges.

PER CURIAM:

Rosendo Rodriguez, III (“Rodriguez”) was convicted of capital murder and sentenced to death in 2009. He is scheduled to be executed by the State of Texas on March 27, 2018. Rodriguez challenged his conviction and sentence on direct appeal, in state post-conviction proceedings, and in a federal habeas proceeding; none of these were successful.

On March 19, 2018, eight days before his scheduled execution, he filed a motion to reopen his federal habeas proceedings under Federal Rule of Civil Procedure 60(b). The following day, Rodriguez filed motions for authorization to file a successive petition and to stay execution in this court. On March 22, the district court held that Rodriguez’s Rule 60 Motion constituted a successive petition for habeas relief under 28 U.S.C. § 2244(b) and transferred the case to this court.

Because Rodriguez fails to demonstrate he is entitled to file a successive habeas petition, we **DENY** Rodriguez’s request to file a successive petition and **DENY** his request for a stay of execution.

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## I.

The facts surrounding Rodriguez's conviction are set forth in our previous opinion. *Rodriguez v. Davis*, 693 F. App'x 276 (5th Cir.), *cert denied*, 138 S. Ct. 389 (2017). Briefly, Rodriguez was convicted and sentenced to death in Texas in March 2009 for the 2005 capital murder of Summer Baldwin, a pregnant prostitute, committed in the course of his committing or attempting to commit aggravated sexual assault. Baldwin's body was discovered in a Lubbock city landfill, stuffed in a suitcase. The prosecution claimed that Rodriguez beat, strangled, and sexually assaulted Baldwin in a hotel room before purchasing the suitcase at a local Walmart, placing her body in it, and discarding it in a dumpster. Baldwin was pregnant at the time of her murder. Because Rodriguez confessed to killing Baldwin, because he maintained that he strangled her in self defense, the trial centered on whether it rose to the level of Texas capital murder. The jury rejected his claim of self-defense and convicted him; he was sentenced to death.

The Texas Court of Criminal Appeals ("TCCA") affirmed Rodriguez's conviction and death sentence on direct appeal. *Rodriguez v. State*, No. AP-75901, 2011 WL 1196871 (Tex. Crim. App. Mar. 2, 2011), *cert. denied*, 565 U.S. 1080 (2011).

Rodriguez presented twenty-one claims for relief during state habeas review, including a claim that trial counsel were ineffective in their investigation and cross-examination of the medical examiner, Dr. Sridhar Natarajan. After hearing testimony from Natarajan, the state habeas court recommended denying relief and the TCCA denied the habeas application. *Ex parte Rodriguez*, No. WR-78,127-01, 2013 WL 1920737 (Tex. Crim. App. May 8, 2013).

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Rodriguez pursued similar efforts in his federal habeas proceeding, where he received funding to investigate an unexhausted claim regarding trial counsel's cross-examination of the medical examiner's testimony regarding the cause of death. The district court denied federal habeas relief in 2016, holding "the timing of [Baldwin's] death would have no logical effect on the verdict, and reasonably effective counsel could have concluded there was nothing to be gained by such a detailed explanation of the victim's last moments of life." *Rodriguez v. Davis*, No. 5:13-cv233, 2016 WL 4098339, at \*34 (N.D. Tex., Aug. 1, 2016).

This court denied a certificate of appealability ("COA") on May 24, 2017, *Rodriguez v. Davis*, 693 F. App'x 276 (5th Cir. 2017), and the Supreme Court denied Rodriguez's petition for a writ of certiorari on October 30, 2017, *Rodriguez v. Davis*, 138 S. Ct. 389 (2017). The 140th District Court of Lubbock County set Rodriguez's execution date on November 8, 2017.

On February 16, 2018, Rodriguez allegedly discovered a 2015 wrongful termination lawsuit involving Dr. Natarajan and a former employee of the Lubbock County Medical Examiner's Office. On February 20, 2018, Rodriguez filed in the state district court a motion for stay of execution, asking the court to withdraw his execution date pursuant to Texas Code of Criminal Procedure Article 43.141(d)(1) so that he could prepare and file a petition for a successive writ under Tex. Code Crim. Pro. Art. 11.071. Rodriguez argued that the wrongful termination lawsuit bears on the credibility and admissibility of Dr. Natarajan's state trial testimony.

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The motion was denied on March 6. On March 12, Rodriguez filed a petition for a successive writ in the state court pursuant to Tex. Code Crim. Pro. Arts. 11.071 § 5 and 11.073. On March 14, he filed a motion for discovery and two days later, on March 16, he filed a motion for stay of execution pending the outcome of his application for a successive writ. The TCCA dismissed his application as an abuse of the writ, without reviewing the merits, and denied his motion for stay of execution. *Ex parte Rodriguez*, WR-78,127-02 (Tex. Crim. App. March 19, 2018).

On March 19, Rodriguez filed a Motion for Relief from Judgment Pursuant to Federal Rule of Civil Procedure 60(b) in the district court, seeking reconsideration of the merits of his ineffective assistance of counsel claim regarding the medical examiner's testimony. While the Rule 60(b) motion was pending, on March 20 Rodriguez moved this court for authorization to file a successive federal habeas petition under 28 U.S.C. § 2244(b), raising four new claims related to his discovery of the wrongful termination lawsuit. According to Rodriguez, his capital murder conviction and sentence violate his Fifth, Sixth, Eighth, and Fourteenth Amendment rights because newly discovered evidence shows the state suppressed evidence of its expert's false and misleading testimony and exculpatory evidence demonstrates Rodriguez's possible innocence of capital murder. The state insists the evidence – which came into existence seven years after Rodriguez's trial – was publicly available to Rodriguez at least a year before the federal district court denied his petition; and in any event, no showing of actual innocence is made with what is at best marginal impeachment evidence.

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On March 22, 2018 the district court construed the Rule 60(b) motion as a successive habeas petition and transferred it to this court and alternatively denied the motion; the court also denied a COA. Rodriguez filed both a Notice of Appeal and a motion for COA in this court on March 22. He has, today, March 23, dismissed his appeal and the transferred successive petition.

**II.**

Rodriguez seeks relief solely pursuant to 28 U.S.C. § 2244(b)(2)(B), which authorizes successive federal habeas applications based on newly discovered evidence only if the petitioner makes out a prima facie case that (i) “the factual predicate for the claim could not have been discovered previously through the exercise of due diligence;” and (ii) the facts in totality would establish “by clear and convincing evidence, that, but for constitutional error, no reasonable factfinder would have found the applicant guilty of the underlying offense.” This statutory standard is in plain terms rigorous, and Rodriguez fails to meet the test.

Rodriguez’s claims center on the filing of a lawsuit in 2015 against Dr. Natarajan, the medical examiner who testified to the manner of the victim’s death at his trial, and his employer Lubbock County. The former employee’s whistleblower lawsuit claimed that while she was employed in the medical examiner’s office from 2013 to 2015, Dr. Natarajan did not perform all of the autopsies and allowed non-certified employees to do much of his work. The plaintiff eventually settled and dismissed her case. The lawsuit was of public record during the pendency of Rodriguez’s initial federal court habeas proceeding and was the subject of contemporary local newspaper reports.

Rodriguez had already challenged, in his first petition, the substance of Dr. Natarajan’s testimony through an ineffectiveness of counsel claim. To the extent petitioner was concerned about the medical examiner’s credibility, the filing of the suit was immediately available to him during his initial

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proceedings in federal court. It is certainly arguable that he did not exercise “due diligence” in failing to discover and pursue timely the implications of this suit. *Cf. United States v. Shepherd*, 880 F.3d 734, 744 (5th Cir. 2018) (finding sufficient support for an ineffective assistance of counsel claim where Appellant’s attorney failed to learn of a case issued two months after Appellant’s arrest, “in the middle of attorney’s representation,” and this failure led to Appellant’s involuntary guilty plea).

But even if the “evidence” of this lawsuit is newly discovered within the meaning of this provision, Rodriguez cannot show that “no reasonable factfinder” would have found him guilty of capital murder. Nor does he show that constitutional error effected his failure to discover the lawsuit.

Most significant here, and unaddressed by Rodriguez in all his last-minute filings, is an affidavit of Garland Timms, a former detective with the Lubbock Police Department, who oversaw the investigation of the victim Summer Baldwin’s murder in September 2005. His affidavit, executed February 20, 2018, attests that Dr. Natarajan came to the landfill and examined the victim’s body in the suitcase at that site, and that Timms observed Dr. Natarajan perform the victim’s autopsy in the morgue the next day. Rodriguez’s successive petition depends on his ability to undermine the doctor’s conclusions or reject his expert status entirely based on his delegation of duties to others in the office. The Timms affidavit is the only evidence on point about Dr. Natarajan’s conduct in this investigation. The State augments this affidavit with citations to three search warrant affidavits by Lubbock police officers who asserted that Dr. Natarajan performed this autopsy.

Rodriguez has had an opportunity to rebut this evidence, since at least February 20. But in any case, the whistleblower lawsuit itself is insufficient to carry his burden of undermining the capital murder conviction. Bear in mind this court’s characterization of Section 2244(b)(2)(B)(ii) as “a strict form

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of ‘innocence,’ roughly equivalent to the Supreme Court’s definition of ‘innocence’ or ‘manifest miscarriage of justice’ in *Sawyer v. Whitley*, [505 U.S. 333 (1992)].” *Johnson v. Dretke*, 442 F.3d 901, 911 (5th Cir. 2006). The whistleblower employee in question wasn’t on staff at the medical examiner’s office until 2013, whereas the Baldwin autopsy occurred in September 2005. Whatever she may have observed about the operation of the office is hardly relevant to events many years earlier. Moreover, she nonsuited her case against Dr. Natarajan in 2016, indicating specifically that her employment dispute did not cast doubt on the scientific validity of the work that the office had performed.

Further, during the course of his prosecution and post-trial proceedings, Rodriguez has had and taken advantage of numerous opportunities to investigate and critique Dr. Natarajan’s performance. An expert consulted pretrial stated that the forensic work in this case was “very good.” *See* 7 Evidentiary Hearing Reporter’s Record, Defense Exhibit 12 (email from trial counsel dated October 17, 2007). Dr. Natarajan was cross-examined during the state habeas proceeding, where his testimony remained essentially the same as his previous trial testimony. That is, he concluded that the victim was sexually assaulted, that she died from blunt force trauma and asphyxiation and he could not definitely opine whether the victim had died before she was placed in the suitcase or after, at which point she could have succumbed to positional asphyxiation. In addition, Rodriguez was provided funds to hire another forensic expert during the federal habeas proceeding, but this did not eventuate in an offer of new evidence on his part.

The State characterizes the newly discovered evidence as marginal impeachment, at best. Based on the uncontradicted record, we agree. Such

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evidence does not demonstrate that “no reasonable factfinder” would have found Rodriguez guilty of capital murder.<sup>1</sup>

A final point is that the newly discovered evidence of the deficient procedures at the medical examiner’s office procedures was not, contrary to *Brady*, “suppressed” by the prosecution. The lawsuit was filed in the public record. The prosecutor had no constitutional duty to inform Rodriguez’s counsel of “evidence” that only came into existence years after the conviction. *Dist. Attorney’s Office for Third Judicial Dist. v. Osborne*, 557 U.S. 52, 68-69 (2009); *see also Estrada v. Healey*, 647 F. App’x. 335, 338 (5th Cir. 2016); *In re Masterson*, 638 F. App’x. 320, 327-28 (5th Cir. 2016). The evidence, as shown above, had little if any bearing on the events in this case. Consequently, there was no antecedent constitutional error that precipitated the inquiry permitted by Section 2244(b)(2)(B)(ii).

Accordingly, the petitioner’s motion to file a successive habeas petition is **DENIED**. His motion for stay of execution is also **DENIED**.

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<sup>1</sup> Rodriguez cites news articles which, he claims, suggest new scientific techniques for gauging the precise cause of this victim’s death. Two of the articles were published before or during the pendency of his initial federal habeas case, yet Rodriguez did not seek funding to pursue the techniques the articles describe. In any event, the application of any new techniques here is wholly speculative; Rodriguez offers no assistance to this court as to the admissibility or probativeness of such techniques in this case. Moreover, whether the victim perished before she was placed in the suitcase or was crushed to death in the dumpster is hardly “exonerating.” Rodriguez’s confession indicates he, a trained medic, found no pulse after he strangled Baldwin and before he went out to buy a suitcase; and he made no effort to revive her.

Tab C

CAUSE NO. 2015-517,110

DR. LUISA FLOREZ, M.D.  
(Plaintiff)

vs.

LUBBOCK COUNTY,  
LUBBOCK COUNTY  
COMMISSIONER'S COURT,  
LUBBOCK COUNTY MEDICAL  
EXAMINER'S OFFICE and DR.  
SRIDHAR M. NATARAJAN, M.D., IN HIS  
OFFICIAL AND INDIVIDUAL CAPACITY  
(Defendants)

§ IN THE DISTRICT COURT  
§  
§  
§  
§  
§ OF LUBBOCK COUNTY  
§  
§  
§ **72ND** JUDICIAL DISTRICT  
§  
§  
§

**PLAINTIFFS ORIGINAL PETITION**

COMES NOW, DR. LUISA FLOREZ, M.D., Plaintiff, complaining of LUBBOCK COUNTY, LUBBOCK COUNTY COMMISSIONER'S COURT, LUBBOCK COUNTY MEDICAL EXAMINER'S OFFICE and DR. SRIDHAR M. NATARAJAN, M.D., IN HIS OFFICAL AND INDIVIDUAL CAPACITY, and in support of said cause would show unto the Court the following:

I.  
**PARTIES**

Dr. Luisa Florez, M.D. (Hereinafter "Dr. Florez"), is a resident citizen of Lubbock County, Texas and an employee of Lubbock County as an deputy medical examiner for the Lubbock County Medical Examiner's Office.

Lubbock County, Lubbock County Commissioner's Court, and Lubbock County Medical Examiner's Office and Dr. Sridhar M. Natarajan acting in his official capacity, (Hereinafter collectively, "Lubbock County", are all political subdivisions of the state and local governmental entities as defined by the Texas Government Code §554.001(2)(A). Service may be had upon

Lubbock County by serving the County Judge of Lubbock County, the Honorable Tom Head, at his official office located at 904 Broadway, Suite 101, Lubbock, Texas 79401. The district clerk is requested to issue service of citation at this time and direct the appropriate local constable or sheriff to effect service upon the Lubbock County defendants.

Dr. Sridhar M. Natarajan acting in his individual capacity, (Hereinafter, “Dr. Natarajan”) is an individual residing in Lubbock County at all material times. Dr. Natarajan may be served in his individual capacity at the office of the Lubbock County Medical Examiner’s Office, 4434 S. Loop 289, Lubbock, Texas 79414. The district clerk is requested to issue service of citation at this time and direct the appropriate local constable or sheriff to effect service upon Dr. Natarajan.

**II.  
VENUE, JURISDICTION and RULE 47 DISCLOSURES**

Venue is proper in this case pursuant to Texas Government Code §554.007(b). The causes of action in this action arose under Texas Government Code Chapter 554, Protection for Reporting Violations of Law. The facts that give rise to Dr. Florez’ claims took place in Lubbock County. Jurisdiction has attached to this matter by virtue of Dr. Florez’ good faith report of illegal activity on the part of the Lubbock County Medical Examiner’s Office to an appropriate law enforcement agency. Dr. Florez was an employee of Lubbock County at the time she made her good faith report of multiple violations of the law. The damages sought by Dr. Florez against Lubbock County and Dr. Natarajan in his individual capacity are within the jurisdictional limits of this Court. As to the statutory causes of action against Lubbock County, Dr. Florez seeks monetary relief over \$200,000.00, but not more than \$1,000,000.00. As to Dr. Florez’ claims against Dr. Natarajan in his individual capacity, Dr. Florez seeks monetary relief over \$1,000,000.00. Dr. Florez seeks a judgment for all relief, monetary or in equity, to which she

shows herself justly entitled as a result of the wrongful conduct of Lubbock County and Dr. Natarajan in his individual capacity.

### **III. FACTUAL BACKGROUND**

Dr. Florez was hired as a deputy medical examiner by the Lubbock County Medical Examiner's Office on or about June 24, 2013. She was hired at a salary of \$200,000.00 a year and was to report to the Chief Medical Examiner, Dr. Natarajan. Dr. Florez was highly qualified for this position. She got her initial training in Colombia, South America. She got her medical degree after 7 years of study from Universidad del Cauca and then did a 4 year specialty training in pathology at the Universidad del Valle. Dr. Florez then immigrated to the United States and did two fellowships, one in forensic pathology at the Harris County Institute of Forensic Science and another in neuropathology at Baylor College of Medicine. She became board certified by the American Board of Pathology in Anatomic and Forensic Pathology and had served for three years as a forensic pathologist at the renown Harris County Institute of Forensic Sciences in Houston, Texas. Her references were impeccable including the Chief Medical Examiner and Deputy Chief Medical Examiner of Harris County. Lubbock County was lucky to have such an accomplished and board certified assistant medical examiner added to their team.

Dr. Florez performed admirably in her first year as an assistant medical examiner for Lubbock County. In the fall of 2014, Dr. Natarajan wrote a glowing letter of recommendation to the county commissioners as a justification for raising her salary. He trumpeted the virtue of Dr. Florez' performance stating that she had been "highly successful and proven a track record of conducting a variety of forensic autopsy cases". He pointed out that she had been extremely productive over her career having "completed over 1000 cases". Dr. Natarajan stated that Dr. Florez "has effectively proven her knowledge base and extreme thoroughness in the completion

of all her cases.....she is a team player and is accomplished in the field of Forensic Pathology”. Dr. Natarajan requested that Dr. Florez’ salary be raised to \$217,000.00 per year by Lubbock County based on her outstanding first year of service. (Ex. 1 - Natarajan raise justification letter) Dr. Natarajan followed this letter with a glowing formal performance review stating that she had a “strong work ethic, strong knowledge and skills and was improving her communication within the organizational chart boundaries.” (Ex. 2 - Florez 2014 Performance Evaluation) This performance review was discussed with Dr. Florez in the presence of Lubbock County Commissioners, Mark Heinrich and Bill McKay. Ominously, Dr. Florez noted on her formal evaluation that there was a lack of standard operating procedures at the Lubbock County Medical Examiner’s office and that she had been invited to attend only two of several staff meetings over the past year. Lubbock County granted Dr. Natarajan’s request that Dr. Florez’ salary be increased to \$217,000.00 in the fall of 2014.

Having spent several years studying and working in the Harris County Medical Examiner’s Office and the Harris County Institute of Forensic Sciences as a forensic pathologist, Dr. Florez became intimately familiar with the legal requirements and restrictions that governed her profession. She knew that forensic pathologists are regularly called upon to testify in court regarding the cause of death after having performed an autopsy. She knew that it was important to maintain professional integrity in her work. She knew that her opinions that she would be required to express under oath in a court of law must follow legal requirements. Shortly after joining Lubbock County, Dr. Florez started to notice irregularities in how Dr. Natarajan handled his official duties as Chief Medical Examiner. It became apparent that Dr. Natarajan and his senior forensic nurse, Honey Haney Smith, had formed a close personal relationship. As a result of this relationship, Dr. Natarajan had delegated many decisions to Honey Haney Smith that only

a trained forensic pathologist could and should make. Honey Haney Smith was making decisions about which bodies to autopsy and which bodies only required a visual inspection. Honey Haney Smith was making decisions about what forensic tests were required in particular cases. Honey Haney Smith was insisting that sexual assault testing be done when it was not forensically indicated. Honey Haney Smith was making decisions about what forensic tests were required in particular cases. Dr. Natarajan was away from the office regularly tending to his private consulting practice. When Dr. Natarajan was away, Honey Haney Smith was acting as his proxy and making decisions that only he or another duly deputized assistant medical examiner could make. Dr. Florez also noted that Dr. Natarajan was not performing his own autopsies. Dr. Natarajan was delegating the cutting, removal of tissue and organs, and collection of forensic evidence to technicians who were not licensed or trained doctors or forensic pathologists. The technicians usually performed these medical functions under the direction of nurse, Honey Haney Smith. These technicians would perform these autopsies and collect the crucial evidence without Dr. Natarajan present in the autopsy suite. Dr. Natarajan would then appear in the autopsy room after the collection of evidence and take a report from the technicians about their observations. Dr. Natarajan would allow these unqualified technicians to make medical evaluations such as the trajectory of bullet wounds or the presence or absence of trauma. Dr. Florez asked Dr. Natarajan how he testified about the observations actually made by untrained staff and the chain of custody for evidence collected when he was not present during the autopsy. Dr. Natarajan glibly stated, "I just say it was done under my supervision." Dr. Florez knew this was illegal. Dr. Florez knew that the work of a forensic pathologist had to be done in a way that complied with professional standards, but also in compliance with the law. Dr. Florez respected the fact that her work as a forensic pathologist could be the difference between obtaining a

conviction of an accused murderer and allowing a guilty party to go free. Dr. Florez also recognized that sloppy work by a forensic pathologist could result in the conviction of a wrongly accused defendant. Dr. Natarajan's approach to his work as Chief Medical Examiner of Lubbock County caused Dr. Florez some serious concerns.

Dr. Florez' concerns were further heightened when Honey Haney Smith asked her to backdate an autopsy report. Dr. Florez had submitted her final edited unsigned report to Dr. Natarajan and Honey Haney Smith for review in early 2014. Honey came to her in October of 2014 and asked her to sign the report, but backdate the report to August 2014. Dr. Florez refused to backdate the report. (Ex. 3 - THEMIS entry regarding backdating report) This request caused Dr. Florez to investigate whether or not the backdating of reports at the Lubbock County Medical Examiner's Office was a common practice. Her investigation revealed that it was a common practice. She found several instances where a report was not completed until many months and sometimes years after the autopsy had been performed, but then backdated to make it seem that the report was completed in a more timely manner. (Ex. 4 - Coats Autopsy Report-Example of Backdated Autopsy Report) Dr. Florez knew this was illegal.

After further investigation and documentation, Dr. Florez discovered that the following illegal activities were regularly occurring in the Lubbock County Medical Examiner's Office:

1. Backdating autopsy reports by Dr. Natarajan. It is a crime to make a false entry on a government document. Texas Penal Code §37.10 Tampering With Governmental Record.
2. Performance of autopsies by unqualified technicians without proper supervision or the presence of Dr. Natarajan. An autopsy must be performed by the Medical Examiner or a

duly appointed deputy. Texas Code of Criminal Procedure, Art. 49.25. §9(a) Medical Examiners

3. Inappropriate collection and handling of evidence during autopsy and Dr. Natarajan falsely testifying that the chain of custody was preserved either personally or under his direction. Texas Penal Code §37.02 Perjury.
4. Delegation of inquest decisions. It is the duty of the medical examiner, or his duly authorized deputy, to hold inquests. Texas Code of Criminal Procedure Art. 49.25 §6(a), 8(b)(c).
5. Delegation of decision on whether or not to perform autopsies to Honey Haney Smith. This decision must be made by the duly appointed medical examiner (Dr. Natarajan) or his duly appointed deputy (Dr. Florez). Texas Code of Criminal Procedure Art. 49.25 §9(a) Medical Examiners.
6. Allowing Honey Haney Smith to dictate and decide what tests needed to be run or not run and authorizing her to overrule the medical judgment of physicians conducting the autopsy, thereby allowing Honey to practice medicine without a license. Texas Occupations Code §155.051 (Licensure Required) and §165.152 (Practicing Medicine in Violation of Subtitle)
7. Alteration and destruction of government records created by Dr. Florez including the deletion of notes in the information software system THEMIS and changing Dr. Florez' final autopsy reports without her knowledge or consent. Texas Penal Code §37.10 Tampering With Governmental Record.

Dr. Florez decided that she must take action to protect the integrity of the Lubbock County Medical Examiner's Office. On or about November 10, 2014, Dr. Florez reported all

these illegal activities to Lubbock County Commissioner, Mark Henrich, at a face to face lunch meeting. Dr. Florez asked Mr. Henrich to protect her anonymity warning him that if Dr. Natarajan found out about her report there would be serious retaliation. Mr. Henrich referred Dr. Florez to the human resources head at Lubbock County, Greg George. Greg George was ill equipped to handle Dr. Florez' reports of Dr. Natarajan's illegal activity. He is not a doctor. He is not a pathologist. He is not a lawyer. Mr. George treated Dr. Florez' reports of illegal activity as an employment dispute and even asked Dr. Florez if she was fishing for a "severance package". Mr. George immediately told Dr. Florez that he would have to disclose her identity and the nature of her report to Dr. Natarajan. Dr. Florez warned Greg George that if he told Dr. Natarajan that she had reported his illegal practices, Dr. Natarajan would retaliate. Dr. Florez told Greg George that if he did not believe her, he could find out if her reports of illegal activity were true by simply interviewing the staff members at the medical examiner's office or installing surveillance cameras in the autopsy suites. Mr. George was unconvinced and insisted that he must tell Dr. Natarajan about her reports. On December 25, 2014, Dr. Florez wrote an email outlining her observations of illegal activity on the part of Dr. Natarajan and Honey Haney Smith and included on that email the Lubbock County District Attorney, Matt Powell, as well as one of his assistants, Neal Burt. Dr. Florez begged the district attorney's office and Commissioner Mark Heinrich to intervene with Mr. George and tell him it was not necessary or advisable to inform Dr. Natarajan about Dr. Florez' reports of illegal activity. She also asked the Lubbock County District Attorney, Matt Powell, for a "proper investigation" of her allegations. (Ex. 5 - 12/25/14, Email from Dr. Florez to Powell, Burt and Heinrich)

In spite of Dr. Florez' prediction that Dr. Natarajan would retaliate if he were informed of Dr. Florez' reports, Dr. Natarajan was told of Dr. Florez' report. Soon thereafter, the glowing

remarks about Dr. Florez' capability and performance flipped 180 degrees. Dr. Natarajan and Honey Haney Smith embarked on a nit picking festival of unfair and unwarranted criticism and relentless attempts to falsely document Dr. Florez' poor performance. Dr. Natarajan started to write daily long detailed emails to Dr. Florez claiming that he had long standing problems with her performance. Dr. Natarajan plopped 330 completed reports on Dr. Florez' desk with new and hypercritical edits. These 330 reports had been waiting months for Honey Haney Smith to review and return to Dr. Florez for final signature. Now suddenly, Dr. Natarajan and Honey Haney Smith flooded her office with these reports in an attempt to document their newly discovered dissatisfaction with her performance. All this, soon after Dr. Natarajan found out that Dr. Florez had attempted to initiate an investigation of alleged illegal practices committed by Dr. Natarajan and Honey Haney Smith.

On January 26, 2015, within days of the beginning of relentless retaliation and harassment by Dr. Natarajan and Honey Haney Smith, Dr. Florez reported the retaliation to Lubbock County Human Resources and Mr. George in an email. (Ex. 6 - Retaliation Reported) Lubbock County did not do anything to stop the harassment and retaliation from Dr. Natarajan and Honey Haney Smith, and it continued. When Mr. George did not respond to her report of retaliation, Dr. Florez wrote a letter to Lubbock County District Attorney on February 4, 2015, asking him to investigate the retaliation. (Ex. 7 - 02/04/2015 Email and attached letter from Dr. Florez to Matt Powell.) The Lubbock District Attorney's Office did nothing in response to Dr. Florez' request for an investigation of the retaliation. Dr. Florez filed a request on February 13, 2015, for a hearing on her allegations of retaliation under the formal grievance procedure contained in the Lubbock County employee policies and procedures handbook. (Ex. 8 - Formal Grievance) Lubbock County's response to Dr. Florez' formal grievance was to place her on

administrative leave with pay, and she was escorted out of the office that very same day. Dr. Florez was ordered by Greg George to “not have any communication or contact at all with any of the employees at the office” of the Lubbock County Medical Examiner. Dr. Florez made several follow up requests regarding what Lubbock County was going to do about her formal grievance. Dr. Florez made several additional requests that she be allowed to present the evidence of retaliation to Lubbock County Officials as part of the grievance procedure. Lubbock County did not respond. (Ex. 9 - Grievance Hearing Requests) Dr. Florez was never interviewed about her claims of retaliation or asked what evidence of retaliation she had assembled. Finally, as is her right under the Texas Whistleblower Act, Dr. Florez realized that Lubbock County had no intention of investigating or having a hearing of any type regarding her formal grievance so she terminated the grievance process and gave Lubbock County and Dr. Natarajan notice on April 14, 2015, that she would proceed under the Texas Whistleblower’s Act.

Dr. Natarajan and Honey Haney Smith’s retaliation did not stop with just harassing Dr. Florez with pretextual complaints about her performance. Dr. Natarajan went on a campaign to discredit Dr. Florez with the staff members of the Lubbock County Medical Examiner’s Office. He falsely told them that she was “crazy”. Honey Haney Smith falsely told them that she was a physical threat and violent. Dr. Natarajan falsely told staff members that she was a convicted felon. None of the staff members that Dr. Natarajan or Honey Haney Smith made these defamatory and/or slanderous remarks were conducting the investigation into either Dr. Florez’ initial report of illegal activity or her secondary report of retaliation. Dr. Natarajan and Honey Haney Smith made these false statements knowingly and maliciously in an attempt to turn the staff members who would surely be interviewed by Lubbock County against Dr. Florez. Dr. Natarajan and Honey Haney Smith made it clear to the staff members that Dr. Florez would pay

for her ill-advised reports of illegal activity. Dr. Natarajan and Honey Haney Smith made these disparaging remarks about Dr. Florez in an attempt to discourage the staff from supporting her reports of illegal activity and also as a warning to the entire staff that anyone that challenges Dr. Natarajan and Honey Haney Smith's authority would face their wrath. This was an effective tactic since Lubbock County was doing nothing to protect Dr. Florez from retaliation even after she brought it to the attention of Lubbock County Officials and filed a formal grievance. No one was safe. No one could speak up. The investigation had been completely mishandled and Dr. Florez had been targeted to take the fall.

**IV.**  
**CAUSE OF ACTION-DAMAGES UNDER TEXAS WHISTLEBLOWER ACT**

**1. Texas Government Code §554.002 Retaliation Prohibited for Reporting Violation of Law**

Texas Government Code §554.002; Retaliation Prohibited for Reporting Violation of Law provides:

(a) A state or local governmental entity may not suspend or terminate the employment of, or take other adverse personnel action against, a public employee who in good faith reports a violation of law by the employing governmental entity or another public employee to an appropriate law enforcement authority.

(b) In this section, a report is made to an appropriate law enforcement authority if the authority is a part of a state or local governmental entity or of the federal government that the employee in good faith believes is authorized to:

- (1) regulate under or enforce the law alleged to be violated in the report; or
- (2) investigate or prosecute a violation of criminal law.

Dr. Florez made a good faith report of multiple violations of the law by Dr. Natarajan and Honey Haney Smith. Dr. Florez made that good faith report to the Lubbock County District Attorney. Lubbock County, acting through its agents, servants and employees, retaliated against her, harassed her, threatened her, and suspended her as a direct result of this good faith report.

Dr. Florez filed a formal grievance and then terminated that grievance pursuant to and in compliance with Texas Government Code §544.006. Lubbock County suspended and/or terminated and/or took adverse employment action against Dr. Florez within 90 days of her report of a violation of the law and, therefore, it is presumed that the adverse personnel action was a result of Dr. Florez' report of violations of the law including, but not limited to, retaliation in violation of Texas Government Code §554.002. This suit was filed prior to the expiration of the Statute of Limitations and agreements to extend those limitations as set forth in Texas Government Code §554.005. Dr. Florez seeks all remedies to which she may show herself justly entitled as set forth in Texas Government Code §554.003 and seeks an Audit of State Governmental Entity After Suit pursuant to Texas Government Code §554.010 upon the successful conclusion of this case in favor of Dr. Florez.

**V.**  
**CAUSE OF ACTION-DEFAMATION OF CHARACTER, SLANDER, LIBEL**

Pleading specifically as to Dr. Natarajan in his individual capacity, Dr. Natarajan has intentionally and/or with malice defamed the character of Dr. Florez. Further, Dr. Natarajan has conspired with Honey Haney Smith to further publish the intentional and/or malicious statements defaming, slandering and libeling Dr. Florez. Dr. Natarajan and/or his co-conspirator, Honey Haney Smith, have published defamatory, slanderous and libelous statements about Dr. Florez to persons who had no public interest or privileged interest in the untrue statements intentionally or maliciously made about Dr. Florez by Dr. Natarajan and/or his co-conspirator, Honey Haney Smith. The defamatory, slanderous and libelous statements regarding Dr. Florez by Dr. Natarajan and or his co-conspirator, Honey Haney Smith, were made with the actual knowledge on the part of Dr. Natarajan of their falsity and/or with conscious indifference toward whether or not they were true or false. The defamatory, libelous and/or slanderous statements by Dr.

Natarajan and/or his co-conspirator, Honey Haney Smith, were not privileged under any statutory or common law theory. Dr. Florez' reputation has been damaged both personally and professionally by the defamatory, libelous and slanderous statements made about her by Dr. Natarajan and/or his co-conspirator, Honey Haney Smith. Dr. Florez therefore seeks actual damages for the damage done to her reputation, professional and personal, and seeks punitive damages as a result of the malicious, intentional or consciously indifferent bad faith defamatory, libelous and slanderous statements published by Dr. Natarajan and/or his co-conspirator, Honey Haney Smith. Dr. Florez seeks actual damages to be determined by the jury in an amount found by the jury and punitive damages in an amount that will not only punish Dr. Natarajan for making malicious, intentional bad faith defamatory, libelous and slanderous comments about Dr. Florez, but also to set an example in the community that such malicious or intentional conduct will not be tolerated in this community.

**VI.  
CONDITIONS PRECEDENT**

All conditions precedent to the filing of this suit and/or attachment of jurisdiction of this court have been performed and or occurred.

**VII.  
JURY DEMAND**

Dr. Florez hereby demands a jury trial regarding her complaints and claims of damages against Lubbock County and Dr. Natarajan in his individual capacity and has paid the appropriate jury fee at the time of the filing of this action.

WHEREFORE, PREMISES CONSIDERED, Dr. Florez prays that Lubbock County and Dr. Natarajan in his individual capacity be cited to appear and answer herein and that upon full and final hearing of this matter that she be awarded actual damages, punitive damages, pre and

post judgment interest, attorney's fees and any other relief to which she may be entitled pursuant to statutory or common law remedies, at law or in equity.

Respectfully submitted,

/s/ *Michael W. Kerensky*

Michael Kerensky  
Williamson Sears & Rusnak  
4310 Yoakum  
Houston, Texas 77006  
713 223 3330  
713 223 0003 fax  
[mike@wsrlawfirm.com](mailto:mike@wsrlawfirm.com)  
TBN: 11331500

JUSTIFICATION IN CHANGING ANNUAL SALARY FOR DEPUTY MEDICAL EXAMINER

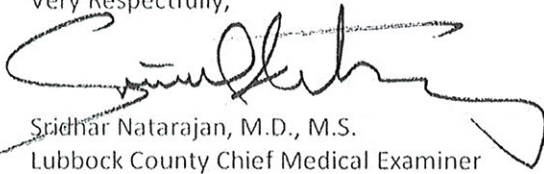
Dr. Luisa Florez has shown a highly successful and proven track record of conducting a variety of forensic autopsy cases, out of county cases, and hospital autopsies. Dr. Florez has completed all of her training and Board Certifications that would be expected of a fully qualified Medical Examiner who can effectively testify within Federal and District Courts. She is Board Certified by the Primary Certifying Agency within the United States – The American Board of Pathology. Her Board Certification is in both Anatomic Pathology and Forensic Pathology. She is also further trained in a unique subspecialty that is sought after in any major Medical Examiner's Office – Neuropathology.

Dr. Florez has been a Lubbock County Medical Examiner for approximately one year, and prior to that, worked at a major metropolitan Medical Examiner's Office. She has personally completed over 1000 cases involving a wide range of manners and causes of death. She has professionally practiced as a Forensic Pathologist in a professional capacity for over three and a half years and throughout that time period has handled significant caseloads. In addition, Dr. Florez has published scientific articles and taught medical students and physicians.

Since her time at the Lubbock County Medical Examiner's Office, she has effectively proven her knowledge base and extreme thoroughness in the completion of all her cases. She is a team player and is accomplished in the field of Forensic Pathology and Pathology and has an extensive publication list. She arrived to us with excellent recommendations.

The office of the Chief Medical Examiner respectfully requests that she be placed for consideration to have her annual salary increased to \$217,000.00.

Very Respectfully,



Srithar Natarajan, M.D., M.S.  
Lubbock County Chief Medical Examiner



# LUBBOCK COUNTY EMPLOYEE PERFORMANCE APPRAISAL

Employee's Name: Luisa Florez Date: 10/10/14  
Position: Deputy Medical Examiner Supervisor: Sridhar Natarajan  
Date of Employment: \_\_\_\_\_ Date of Last Appraisal: 1st ANNUAL

Mark one box for each category. Any items ranked as "A" require reassessment every 90 days.

## 1. QUALITY OF WORK (degree of excellence, accuracy and thoroughness):

- A. Considerably below job requirements.
- B. Has not reached expected level.
- C. Meets standards.
- D. Definitely better than expected level.
- E. Exceptionally high quality of work.

## 2. QUANTITY OF WORK (amount of work relative to work conditions):

- A. Considerably below job requirements.
- B. Has not reached expected level.
- C. Meets standards.
- D. Definitely better than expected level.
- E. Exceptional productivity.

## 3. COOPERATION (disposition with external and internal customers):

- A. Uncooperative with others.
- B. Minimal courtesy, has not reached expected level.
- C. Meets standards.
- D. Cooperates well with all customers.
- E. Enthusiastic and outstanding attitude towards all others.

## 4. SAFETY (follows safety procedures):

- A. Careless.
- B. Minimal compliance with safety procedures.
- C. Accepts safety as part of job.
- D. Practices good safety habits.
- E. Exercises great care.

Number of safety violations \_\_\_\_\_ Injuries \_\_\_\_\_ Driving accidents \_\_\_\_\_



5. ATTENDANCE & PUNCTUALITY(faithful about coming to work daily):

- A. Undependable, absent or late without notice.
- B. Lax in attendance or reporting for work; careless about break time.
- C. Usually present and on time; reports absence promptly.
- D. Rarely absent or late; always notifies in advance.
- E. Always prompt; excellent attendance.

6. INDEPENDENCE (ability to perform duties without monitoring):

- A. Needs constant supervision.
- B. Requires close supervision on some work.
- C. Can perform job with routine checks.
- D. Demonstrates independence; requires only periodic supervision.
- E. Requires very little supervision; assists in the supervision of others.

7. ADAPTABILITY (ability to accept change):

- A. Unwilling or slow to adjust to changes.
- B. Accepts changes with minimal difficulty.
- C. Willing to accept changes.
- D. Readily adjusts to modifications with good attitude.
- E. Enthusiastic about changes and assists others in the transition.

8. PLANNING SKILLS (ability to problem solve and set goals & objectives):

- A. Never offers suggestions or solutions; fails to develop plan of action.
- B. Slow to bring a problem to supervisor; sets unrealistic goals.
- C. Recognizes problem areas and usually arrives at sound conclusions.
- D. Demonstrates sound judgment; perceptive and creative.
- E. Solution oriented; takes pride in planning and organizing work.

9. INITIATIVE (self-motivated and creative in work):

- A. Requires constant direction; shows no creativity.
- B. Shows little initiative; needs redirection often.
- C. Performs work on own initiative.
- D. Demonstrates good initiative; finds extra work to do.
- E. Exceptional initiative; Seeks new methods and very creative.

10. PROFESSIONALISM (communication skills & adherence to policies):

- A. Lacks ability to articulate effectively; disregard for policies.
- B. Able to express thoughts and comply with routine policies.
- C. Usually adheres to policies and communicates effectively.
- D. Always adheres to policies and articulates very well.
- E. Very diplomatic communicator with extraordinary pride in department.

SUPERVISOR'S COMMENTS (required for any rating of A or E in a category):

Strong work ethic  
Strong knowledge skills  
Continue to improve to effectively  
communicate within the org chart boundaries

GOALS (set at least 3 realistic work related goals with employee):

- (1) Follow org. chart for procuring investigative documents
- (2) Update memberships to highest level
- (3) Improve communication on a more regular basis with Managing Director & Senior Investigator

EMPLOYEE COMMENTS:

Communication problems reside in lack of SOPs.  
 I have been invited only to two staff meetings;  
 one last year and one this year, both attended  
 by commissioners.  
 Received organizational chart today.

 5 NOV 2014  
 Supervisor's Signature & Date

 11/5/14  
 Employee's Signature & Date

Routing: Personnel File  
 Employee

# Case Info

Goto Case #



Connect VP

Labels

Notes

Items

Close

ME Case Number: **FAL14-0028**

Investigator: Jade Bailey

Reported By: Officer Pijerina

Phone Number: 317-2419

Reporting Agency: Lubbock Police Department

Deceased Name: **Rutherford, Harold Wayne**

Case Type: FAL Examination

Jurisdiction: Lubbock

Investigating Agency: Lubbock Police Department

Agency Case Number: 14-

Date Reported: 01/16/2014 13:03

Date Inv On Site: 01/16/2014 13:25

Case Statuses: **Hold Pending Examination**

GA Case

Cremation Request

Organ Donation / Lifegift

Confidential

Open

Investigation

## Supplement

User Name: Luisa Florez

Supplement Date: 10/24/2014 15:00

Honey asked me to sign this autopsy report dated August 18, 2014 because the original was lost. I refused to sign it with that date and sign it with date I was provided with the final report, October 24, 2014.

Mr. Heygood, attorney for the plaintiff had called requesting a telephonic conference on preparation for the upcoming deposition. On 10/27/14 at 2:30 pm, I was informed by Queitha, that per Dr. Natarajan, a conference was not required and she would be calling the lawyer to inform him.

On 10/31/14 I attended the deposition. Start time 10 a.m. End time: 10:36 am.

On 11/18/14 around 1:40 pm I received the deposition transcripts. I reviewed it and made a couple of corrections (time spend 30 minutes). I FEDEX these documents on 11/19/14.



## LifeGift Request for Information/Autopsy Report

LifeGift#: 9004409

Phone#: 800 798 5568

Name of Requestor: Sophie Lee

Fax#: 800 798 5572

Name of Deceased: Coats, L.

LCME#: FAL-13-0153

Date of Death: 4/16/13

RECEIVED

MAY 3 2013



TEXAS DEPARTMENT OF STATE HEALTH SERVICES - VITAL STATISTICS  
APR 19 2013

STATE FILE NUMBER 142-13-052610

STATE OF TEXAS CERTIFICATE OF DEATH

TEXAS DEPARTMENT OF STATE HEALTH SERVICES - VITAL STATISTICS UNIT

1. LEGAL NAME OF DECEASED (include "AKA's if any) (First, Middle, Last) **LORAN ASHLEY COATS**

2. DATE OF DEATH - ACTUAL OR PRESUMED (mm-dd-yyyy) **APRIL 16, 2013**

3. SEX **FEMALE**

4. DATE OF BIRTH (mm-dd-yyyy) **AUGUST 17 1996**

5. AGE (Last Birthday) (years) **16**

6. UNDER 1 YR Mo Days

7. BIRTH PLACE (City & State or Foreign Country) **LUBBOCK, TX**

8. MARITAL STATUS AT TIME OF DEATH  Married  Widowed  Divorced  Never Married  Unknown

9. SURVIVING SPOUSE'S NAME (If wife, give name prior to and marriage)

10. SOCIAL SECURITY NUMBER **627-54-4931**

11. HOME STREET ADDRESS **6910 CR 6120**

12. CITY OR TOWN **LUBBOCK TEXAS**

13. ZIP CODE **79363**

14. MOTHER'S NAME PRIOR TO FIRST MARRIAGE **JACQULYNN SUSANN DICKERSON**

13. PLACE OF DEATH (CHECK ONLY ONE)

14. COUNTY OF DEATH **LUBBOCK**

15. CITY/TOWN, ZIP IF OUTSIDE CITY LIMITS, GIVE PREFIX NO. **SHALLOWATER, 79363**

16. FACILITY NAME (If not institution, give street address) **27 MILES N OF CR6300 ON FM179**

17. DECEASED'S NAME & RELATIONSHIP TO DECEASED **MATT COATS - FATHER**

18. MAILING ADDRESS OF INFORMANT (Street and Number, City, State, ZIP Code) **6910 CR 6120, SHALLOWATER, TX 79363**

19. SIGNATURE AND LICENSE NUMBER OF MEDICAL DIRECTOR OR PERSON ACTING AS SUCH **KEVIN A COMBEST, BY ELECTRONIC SIGNATURE - 11122**

20. NAME OF FUNERAL FACILITY **MILLER CREMATORY**

21. COMPLETE ADDRESS OF FUNERAL FACILITY (Street and Number, City, State, ZIP Code) **2210 BROADWAY, LUBBOCK, TX 79401**

22. CHIEF OF BURIAL (Check only one)

23. DATE CERTIFIED (mm-dd-yyyy) **APRIL 18, 2013**

24. LICENSE NUMBER **J5422**

25. TIME OF DEATH (Approx or presumed) **17:35**

26. CITY OF CERTIFIER **MD**

27. NAME, ADDRESS OF CERTIFIER (Street and Number, City, State, ZIP Code) **SRIDHAR NATARAJAN 4434 S LOOP 289, LUBBOCK, TX 79414**

28. I, THE CERTIFIER, ENTER THE CHAIN OF EVENTS, DISEASES, INJURIES OR COMPLICATIONS THAT LED TO THE DEATH OR TO THE ENTRY OF THE DECEASED INTO THE HEALTH CARE FACILITY (Do not abbreviate. Enter one line each on a separate line.)

29. IMMEDIATE CAUSE (Final cause of death) **a. CRANIOCEREBRAL INJURIES**

30. INTERMEDIATE CAUSE (Cause leading to the cause just entered) **b. BLUNT FORCE TRAUMA**

31. UNDERLYING CAUSE (Cause of injury that initiated the events resulting in death) **c. MOTOR VEHICLE CRASH INCIDENT**

32. ALL OTHER SIGNIFICANT CONDITIONS CONTRIBUTING TO DEATH (List first results in the order listed) **ROADWAY**

33. WAS AN AUTOPSY PERFORMED?  Yes  No

34. WERE AUTOPSY FINDINGS AVAILABLE TO COMPLETE THE CAUSE OF DEATH?  Yes  No

35. REGISTERED DEATH  Yes  No

36. REGISTERED BIRTH  Yes  No

37. REGISTERED MARRIAGE  Yes  No

38. REGISTERED DIVORCE  Yes  No

39. REGISTERED SEPARATION  Yes  No

40. DATE OF INJURY (mm-dd-yyyy) **APRIL 16, 2013**

41. TIME OF INJURY (mm-dd-yyyy) **16:27**

42. PLACE OF INJURY (City, State, ZIP Code) **SHALLOWATER, TX 79363**

43. TYPE OF INJURY **MOTOR VEHICLE CRASH INCIDENT**

44. REGISTRAR PREFIX **02 0987**

45. DATE RECEIVED BY REGISTRAR **APRIL 19, 2013**

46. REGISTRAR **REGISTRAR - CITY OF LUBBOCK, ELECTRONICALLY FILED**

WARNING: The penalty for knowingly making a false statement on this form can be 2-10 years in prison and a fine up to \$10,000. Health and Safety Code, Sec. 195, 195B.

VS-112 REV 1/2006

Sridhar Natarajan, M.D., M.S.  
Director / Chief Medical Examiner



**MEDICAL EXAMINER**

**AGENCY REQUEST FOR INFORMATION/AUTOPSY REPORT**

South Plains CFRT  
Name of Department/Agency

Agency Case#

743-7770  
Phone#/Extension

**PEDIATRIC CARE CENTER**  
4430 South Loop 289  
Lubbock, TX 79414  
Address

City, State, Zip

Patti Salazar  
Name of Requestor

743-7769  
Fax#

Loran Ashley Coats  
Name of Deceased  
DOB 8/17/96

FAL13-0153  
LCME Case#

4/16/13  
Date of Death

**For Office Use Only:**

Amya Wade  
Received by-Representative Name

2-6-14  
Date Received

- Mailed Date: \_\_\_\_\_
- Picked Up Date: \_\_\_\_\_
- Faxed Date: \_\_\_\_\_

Sridhar Natarajan, M.D., M.S.  
Director / Chief Medical Examiner



MEDICAL EXAMINER

2<sup>nd</sup> request

AGENCY REQUEST FOR INFORMATION/AUTOPSY REPORT

South Plains CFRT

Name of Department/Agency

Agency Case#

743-7770

Phone#/Extension

**PEDIATRIC CARE CENTER**

4430 South Loop 289

Lubbock, TX 79414

Address

City, State, Zip

Patti Salazar

Name of Requestor

743-7769

Fax#

Loran Ashley Coats

Name of Deceased

FAL13-0153

LCME Case#

4/16/13

Date of Death

For Office Use Only:

Alanna Coats  
Received by-Representative Name

5-8-14  
Date Received

Mailed Date: \_\_\_\_\_

Picked Up Date: \_\_\_\_\_

Faxed Date: \_\_\_\_\_



6. Corpus callosum petechial hemorrhages.
  7. Scalp contusions.
  8. Right temporalis muscle hemorrhage.
- B. Torso:
1. Multiple rib fractures.
  2. Bilateral lung contusions.
  3. Right pelvic fracture at the level of the sacroiliac joint.
  4. Right adrenal gland hematoma.
  5. Superficial splenic lacerations.
  6. Diffuse dense abrasions, contusions, and lacerations most prominent along the right side of the body.

II. Toxicology (basic): Negative for alcohol and drugs of abuse.

III. LifeGift.

#### Clothing and Personal Effects

The deceased arrives in a white body bag. She is dressed in a hospital gown. The decedent's head and portions of her shoulders are resting on a pillow with hospital pads and a towel.

Accompanying the body in brown paper bags, each with ink labeled descriptions are the following items:

- A pair of khaki-colored shorts, with shiny oval stone designs (received previously cut);
- A white and pink bra with a multicolored strap (received previously cut);
- A white tank top t-shirt (received previously cut);
- A pair of blue and white thong type panties (received previously cut);
- A blue and white plaid button-down shirt (received previously cut).

Comments: Various clothing has areas of blood staining and is blood-soaked. Other various colored stains are present. There are areas of the clothing with defects. There is adherent debris on various areas of some of the clothing.

#### Evidence of Medical Treatment

The head is received wrapped in partially bloody gauze bandages:

An endotracheal tube is present.

A firm cervical collar is present.

Intravascular lines are present and enter the region of the bilateral antecubital fossa (Comment: The right side intravascular line is attached to a fluid bag which contains approximately 500 cc of residual Ringer's lactate).

**NAME: Loran Coats**

**AUTOPSY NO: FAL13-0153**

An intraosseous line enters the region of the proximal anterior left leg.

There are bilateral chest tubes present and each is secured by white hospital tape.

### External Examination

The body is that of a well developed, well nourished, teenage Caucasian female, weighing 155 pounds, and whose length is 67 inches. Her appearance is consistent with the stated age. Rigor mortis is present in the extremities. Lividity is dorsally-dependent, minimal and fixed.

The deceased has brown-blond scalp hair averaging 12 to 16 inches in length. In the hair is a green-gray hair tie. There is debris in the hair to include grass-like material and fragments of glass. The ears, nose, and external auditory canals are normally formed. The ears are pierced (remote). The eyes are closed; the conjunctivae are white; the corneas are clear; and the irides are blue. There is a partially collapsed clear contact lens overlying a portion of the left cornea; a contact lens is not identified on the right eye. The mouth is slightly open and the teeth are natural. The upper lip mucosa and frenulum is intact.

The neck, chest and the abdomen are normally formed. The breasts are unremarkable. The nipples are unremarkable. The abdomen is soft.

The extremities are symmetric and normally formed. The right palm is without acute trauma. The fingernails are moderate in length and intact. The toenails are intact and have a silver nail polish. The soles of the feet are without acute traumatic changes.

The genitalia are those of an adult female. The labia majora, minora, introitus, and anus are without acute traumatic changes. The pubic hair is shaved.

#### **Major well healed scars:**

On the anterior left leg are focal patchy scar-like changes.

In the pubic area there are focal areas of scar-like changes.

### Evidence of Injury

#### **Head and Neck:**

Over a 14 x 10 cm region of the face, right of the midline involving the right cheek, right orbit, and right forehead are deep orange-red abrasions with oblique and linear patterns, with surrounding purple-blue-red contusion.

In the region of the right eyebrow is a gaping 5 cm laceration with palpation of underlying disrupted right bony orbit (fracture depressed inward). There is surrounding soft tissue hemorrhages.

NAME: Loran Coats

AUTOPSY NO: FAL13-0153

On the forehead, right of the midline is a 2 cm gaping laceration with palpable underlying depressed comminuted fracture of the frontal bone. There is slight deformity of the face in the region of this injury complex.

The bridge of the nose is contused purple. The distal aspect of the nose is contused purple with orange-red abrasions, most prominent at the midline and the right nostril.

There is left periorbital ecchymosis.

The left cheek has patchy contusions.

The left ear has patchy purple-blue contusions.

The posterior left ear has punctate hemorrhages and purple-blue contusions.

The lower lip mucosa, right of the midline at the corner, has a 2 cm area of purple-blue contusion with superficial lacerations and puncture-like changes.

The right lower cheek and the right half of the jaw have patchy to focal confluent areas of orange-red abrasions and patchy areas of light purple-blue ecchymosis.

On the mid chin is a 2 x 2 cm area within which is orange-red abrasions, ranging from 2 to 3 mm to 2 cm.

The body of the jaw on the left has overlying light purple-blue, ill-defined ecchymosis, 3 x 2 cm.

The maxillary jaw has extreme laxity with fracture displacement just posterior to the molars.

The lower jaw is fractured left of the midline, just posterior to the canine. There is a gaping defect with hemorrhage surrounding the soft tissue and teeth. The mandibular jaw is fragmented at this site.

On the anterior neck is an 8 mm abrasion.

Subsequent autopsy of the head reveals:

A transmural scalp contusion in the region of right frontal scalp defect; the subgaleal and transmural contusions are over an 8 x 6 cm area.

There is right temporalis muscle hemorrhage.

There are multiple skull fractures:

There is a right parietotemporal depressed fracture with a 3 x 2 cm wedge shaped bony fragment displaced inward. Fractures extend bilaterally and involve the left parietal bone and extend and involve the left temporal bone.

Anterior cranial fossa has bilateral comminuted displaced fractures.

NAME: Loran Coats

AUTOPSY NO: FAL13-0153

Right cranial fossa has comminuted displaced fracture, most prominent along the petrous ridge.

Left middle cranial fossa with fracture extension over the left petrous ridge fractured and displaced.

Posterior cranial fossa with fractures extending right of the midline.

The dura is disrupted.

There is dense subarachnoid hemorrhage, most prominent along the basilar aspect.

There is less than 10 cc of subdural hemorrhage.

The brain on coronal sectioning reveals bilateral superficial temporal lobe contusions.

The white matter in the region of the corpus callosum shows multiple petechial hemorrhages.

The cerebellum on cross section has patchy subarachnoid hemorrhages.

The brainstem on cross section has multifocal areas of hemorrhages, ranging from 2 to 3 mm to 1 cm, and most prominent in the region of the pons and midbrain.

**Torso:**

On the upper chest and involving the upper half of the breasts are patchy purple-blue areas of ecchymosis, linear ill-defined abrasions, and numerous punctate abrasions.

There are patchy abrasions and contusions of the bilateral breasts.

There are confluent linear oblique striated abrasions on the anterior chest from the level of the right nipple to the right lower quadrant of the abdomen. The vertical length is 34 cm and horizontal width is 18 cm. There is an intermittent gap extending distally with a continued presence of abrasions along the lateral right lower extremity.

Directly inferior and lateral to the left breast are punctate to confluent abrasions over a 15 x 10 cm area. The abrasions are irregular with some linearity.

On the left lower quadrant of the abdomen in the region of the pelvis is a focal 8 mm abrasion.

On the lateral right torso is a 30 x 14 cm area of orange-red vertically-oriented to obliquely-oriented deep abrasions. The abrasions appear most prominent along the distal half. These abrasions extend over along the anterolateral aspect of the torso.

**NAME: Loran Coats**

**AUTOPSY NO: FAL13-0153**

On the mid back are confluent areas of orange-red abrasion, most prominent at the midline and with involvement to include the left upper back. This zone has a maximum vertical length of 30 cm and a maximum horizontal length of 34 cm. Surrounding this zone complex are patchy areas of light purple-blue ecchymosis and focal abrasions.

Subsequent autopsy of the torso reveals:

Multiple rib fractures with surrounding dense intercostal muscle hemorrhages and partially spiculated and displaced:

Right anterior rib #2 fracture;

Left clavicle fracture;

Right posterior rib fractures, #5, #6, #8, #9, #10, (Comment: #5 and #9 are spiculated).

Diffuse right lung contusions, all lobes.

Left patchy lung contusions.

Right sacroiliac joint fracture with proximal aspect displaced anteriorly.

Focal superficial lacerations (less than 5) involving the inferior aspect of the right hepatic lobe.

Focal subcapsular contusion along the dome of the right hepatic lobe.

Superficial anterior splenic lacerations, extending along the surface, 3 to 5 cm, with less than 2 mm extension (less than 5).

Right adrenal gland medullary hematoma with free fluid exuding on cross section.

**Extremities:**

**Right upper extremity:**

On the flexor aspect of the right forearm are orange-red clusters of abrasions, most prominent at the mid aspect; on the right wrist is a 1 cm superficial skin tear with focal punctate abrasions.

On the dorsum of the right hand, along the 5<sup>th</sup> digit aspect, there is purple-blue contusion. Focal skin tears are present to include the right digits.

On the posterior right upper extremity and elbow are superficial dicing type cuts with sparrow type features presenting in an elongated fashion from the shoulder to the elbow. Distally, there is confluent purple-blue ecchymosis with soft tissue swelling.

**Left upper extremity:**

The left forearm has a cluster of punctate abrasions in a band-like formation from the level of the elbow to the wrist, most prominent along the flexor aspect. These abrasions are orange-red, and range from 1 to 2 mm to 2 cm in greatest diameter.

**NAME: Loran Coats**

**AUTOPSY NO: FAL13-0153**

At the level of the left wrist, ulnar aspect, is a 1 inch laceration.

The palm of the left hand has multiple lacerations and patchy purple-blue contusions, ranging from 1 to 2 cm in greatest diameter.

The dorsum of the left hand has focal superficial skin tears and abrasions and purple blue contusions.

In the region of the posterior left upper extremity, extending 2 inches above the level of the axilla and 1 inch distal to the elbow, is a zone of confluent to irregular obliquely-oriented abrasions. These abrasions are orange-brown-black, and centrally are deeper. There is surrounding light purple ecchymosis.

Overlying the left elbow is a 6 x 4 cm area of purple-blue contusion, with orange-black abrasions.

**Right lower extremity:**

There are deep confluent to patchy abrasions overlying the right knee, both medial and lateral, with associated areas of purple-blue ecchymosis.

Along the lateral aspect of the right lower extremity, from the region above the gluteal fold and extending to the ankle are confluent deep brown-red scrape type abrasions with linear markings, most prominent in the region of the thigh. There is density of abrasions along the lateral aspect of the right knee and proximal lateral right leg. Located within this injury complex are multiple irregular abrasions and superficial skin tears. The injuries extend and involve the right lateral malleolus, ventral aspect of the right foot and right toes.

**Left lower extremity:**

The medial left lower extremity in the region of the thigh has confluent purple-blue ecchymosis.

On the medial aspect of the distal left leg is a 3 x 2 cm area of purple-blue ecchymosis.

On mid aspect of the anterior left leg is a 2 cm area of light purple-blue ecchymosis.

Overlying the left knee is punctate to confluent abrasions with light purple ecchymosis.

**Internal Examination**

Injuries previously described will not be repeated.

**Head:** The scalp is incised and retracted. The cranial vault is opened. The brain weighs 1256 grams. The circle of Willis is unremarkable for congenital malformations. The brain on coronal sectioning is without evidence of mass or infectious process. Malformations are not identified. The dura is stripped from the basilar skull and the dura has a translucent tan-white appearance.

**NAME: Loran Coats**

**AUTOPSY NO: FAL13-0153**

**Neck:** There is no evidence of infection or tumor. The airway is patent. The hyoid bone, larynx, and laryngeal cartilages are all unremarkable. The tongue on cross section shows no evidence of puncture wounds or hemorrhage.

**Body:** The body is opened with a Y-shaped incision to reveal an average chest wall fat thickness of 1 to 1.5 cm and abdominal wall fat thickness of 2.5 to 3.5 cm. The organs occupy the usual positions and relationships. There is no fluid present in either the pleural cavities or the peritoneal cavity. There is minimum amount of straw-colored fluid present within the pericardial sac.

**Cardiovascular System:** The heart weighs 270 grams. The epicardial and endocardial surfaces are smooth and glistening. The myocardium is uniformly firm and has a beefy-red appearance, and no evidence of acute myocardial infarction or focal scarring. The cardiac valves are thin and delicate. The coronary arteries on cross section are widely patent and free of atherosclerotic plaque formation.

**Respiratory System:** The right lung weighs 384 grams and the left lung weighs 406 grams. The pleural surfaces are smooth and glistening and have a dark pink-purple-red appearance. There are focal areas of anthracotic staining on the pleural surface. On cross section of the lungs, the parenchyma is dark red, and without evidence of tumor or consolidation. There is no evidence of pulmonary thromboemboli.

**Gastrointestinal System:** The esophagus, stomach, and small and large bowel are unremarkable. The small bowel contains tan creamy material. The large bowel contains firm green-brown stool. The stomach contains 125 cc of viscous brown-black liquid. The appendix is present.

**Hepatobiliary System:** The liver weighs 1,212 grams. The capsule is translucent, glistening, and the underlying hepatic surface is brown-red and smooth. On cross section, the parenchyma is brown-red and soft. The gallbladder is present.

**Pancreas:** The pancreas has the usual size, shape, and location. On cross section, the pancreas is tan-pink, lobulated and unremarkable.

**Genitourinary System:** The right kidney weighs 82 grams and the left kidney weighs 88 grams. The capsules strip with ease revealing unremarkable smooth brown-red cortical surfaces. On cross section, the cortex and medullary components are distinct and unremarkable. The collecting systems, ureters and bladder are unremarkable. The bladder is intact and contains less than 5 cc of urine.

**Fallopian tubes, Uterus, and Ovaries:** Present and unremarkable grossly and on sectioning. The endometrium has a tan-white surface with slightly viscous creamy content. The ovaries and fallopian tubes on cross section are unremarkable for mass, hemorrhage, or malformations.

NAME: Loran Coats

AUTOPSY NO: FAL13-0153

**Hemolymphatic System:** The spleen weighs 150 grams and has a glistening dark blue capsular surface. On section, the parenchyma is dark red and soft. The lymph nodes systemically are unremarkable.

**Musculoskeletal System:** The examined muscles and bones are symmetric.

**Endocrine System:** The pituitary and thyroid are unremarkable both grossly and on sectioning.

**Specimens Retained**

**Toxicology:** Body fluids are retained for toxicology examination.

**Other Procedures**

Digital photography is obtained.

Blood card is obtained.

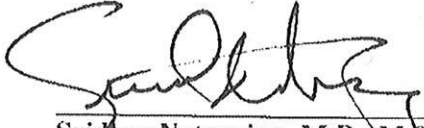
Fingerprints are obtained.

NAME: Loran Coats

AUTOPSY NO: FAL13-0153

**OPINION:** It is our opinion that the Cause of Death of Loran Coats, a 16-year-old Caucasian-white female, was due to Craniocerebral Injuries due to Blunt Force Trauma due to a Motor Vehicle Crash Incident. Available investigative documents and medical records were reviewed.

The Manner of Death is classified as Accident.

 4 Oct 2013  
Sridhar Natarajan, M.D., M.S.      Date  
Lubbock County Chief Medical Examiner

		Date modified	Type	Size
	FAL13-0147 Mireles (Final)	8/11/2014 3:14 PM	Microsoft Word D...	24 KB
	FAH13-0149 Romero (Final)	8/11/2014 4:37 PM	Microsoft Word D...	27 KB
es	FAL13-0150 Barrera (Final)	8/12/2014 10:37 A...	Microsoft Word D...	24 KB
	FAL13-0151 McAlister (Final)	8/12/2014 2:40 PM	Microsoft Word D...	30 KB
	FAL13-0152 Miller(Final)	8/12/2014 3:17 PM	Microsoft Word D...	23 KB
	FAL13-0153 Coats (Final)	8/12/2014 4:33 PM	Microsoft Word D...	29 KB
	FAL13-0154 Baker (Final)	8/12/2014 5:12 PM	Microsoft Word D...	23 KB
	FAL13-0155 Bowers (Final)	8/13/2014 9:11 AM	Microsoft Word D...	24 KB
	FAL13-0156 Torrez (Final)	8/13/2014 9:57 AM	Microsoft Word D...	23 KB
	FAL13-0157 Villalobos (Final)	8/13/2014 10:22 A...	Microsoft Word D...	23 KB
	FAL13-0158 Kelly (Final)	8/13/2014 11:31 A...	Microsoft Word D...	23 KB
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awn) (K:)	FAL13-0166 Dodson (Final)	8/14/2014 4:53 PM	Microsoft Word D...	28 KB
	FAL13-0167 Sanchez (Final)	8/15/2014 3:05 PM	Microsoft Word D...	28 KB
	FAL13-0172 Garcia (Final)	8/15/2014 4:57 PM	Microsoft Word D...	30 KB
	FAL13-0297 Zubia (Final)	8/18/2014 12:04 PM	Microsoft Word D...	26 KB
	FAL13-0177 Link (Final)	8/18/2014 4:53 PM	Microsoft Word D...	23 KB
	FAL13-0178 Romo (Final)	8/19/2014 3:09 PM	Microsoft Word D...	23 KB
	FAL13-0179 Hernandez (Final)	8/19/2014 4:06 PM	Microsoft Word D...	26 KB

Date modified: 8/12/2014 10:37 AM Offline status: Online

Case Info

Goto Case #

Reporting Agency: Covenant Medical Center

GA Case

Cremation Request

Record of Death Locations Investigation

Description

CMC records

DPS DL

Authority to Cremate

Death Certificate

Chain of Custody

Combat Witness of Removal of Remains

Release of Remains

NMS Labs

Autopsy Report Request (Picked Up)

LG

CMC Records

AeroCare Report

TXDOT Crash Report

DPS report

Autopsy Request (Sent 12/16/2014)

Second Request (Sent 12/16/2014)

Record 1 of 1  Filtered See

FORM VIEW

Name of Requestor  
Datti Suleman

Name of Deceased  
Lorran Ashley Coats  
DOB 8/17/92

LCME Case#  
FAL13-0153

Date of Death  
4/16/13

For Office Use Only:

Received by- Representative Name  
A. W. Coats

Date Received  
2-6-14

PEDIATRIC CARE CENTER  
4430 South Loop 289  
Lubbock TX 79414

City, State, Zip  
743-71  
Fax#

8/12

Remove Sort  
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- MC records
- PS DL
- Authority to Cremate
- Death Certificate
- Chain of Custody
- Combest Witness of Removal of Remains
- Release of Remains
- NIMS Labs
- Autopsy Report Request (Picked Up)
- LG
- CMC Records
- AeroCare Report
- IXDOT Crash Report
- DPS report
- EMS report
- Autopsy Request (Sent 12/16/2014)
- Second Request (Sent 12/16/2014)
- Autopsy Report

AUTOPSY I/PDF - Adobe Reader

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Loyan Ashley (sister)  
 Name of Deceased

FB113-0153  
 LCME Case#

4/16/13  
 Date of Death

**For Office Use Only:**

Alanna Cross  
 Received by-Representative Name

5-8-14  
 Date Received

Mailed Date: \_\_\_\_\_

Picked Up Date: \_\_\_\_\_

Faxed Date: \_\_\_\_\_

1 of 1 7 filtered 58

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**From:** Luisa Florez  
**Sent:** Thursday, December 25, 2014 9:50 AM  
**To:** Matt Powell; Neal Burt; Mark Heinrich  
**Subject:** Medical Examiner's Office - Extremely Urgent  
**Importance:** High

Dear Mr. Powell, Mr. Burt and Mr. Heinrich,  
On November 10, 2014 I met with commissioner Mr. Heinrich. He directly asked what was my opinion regarding Dr. Natarajan's and Honey's affair. I told him is not just my opinion, it is a fact that they have been having affair at least for the past 5 years. He proceed to ask me if other people in the office knew. I told him you have to be an idiot not to know what is going on, the problem is that everyone is afraid of losing their job if they talk. I asked commissioner Heinrich to maintain these between us because I know if the parties involved found out there would be serious retaliation.

On Friday, December 19, 2014 I received an email from Mr. Greg George to call him. When I called him he asked if we could set up a meeting because he had met with commissioner Heinrich which had provided him with some documentation. I met with Mr. George on Monday, December 22, 2014. He stated that I was under the impression that Dr. Natarajan and Honey's affair is illegal. I told the reasons why it is illegal is because it has led to:

- 1- Retaliation.
- 2- Favoritism of certain employees.
- 3- Intimidation.
- 4- Abuse of power.
- 5- Allowing Honey to make medical decisions. She decides which cases come to the office, which cases are released from the office's jurisdiction, which cases are assigned as an autopsy and which are only inspections.

Mr. George them proceed to ask me is I was looking for a severance package. I am appalled by even the suggestion and consider this an insult. He also suggested that somehow I should not complain because the county went through a lot of trouble to hire me. I told I really appreciate what he and other people in the county did in order to hire me but this does not give Dr. Natarajan or anybody else any right to do illegal things, which extend beyond what I just listed, and include:

- 1- Dr. Natarajan does NOT perform the great majority of his autopsies. The assistants do everything for him, and Dr. Natarajan is not even in the room to supervise. This is malpractice and illegal. The assistants are there to assist, NOT to perform his job.
- 2- The assistant collect the evidence for him. I have a specific example of a homicide on which the assistants were digging out a bullet and Dr. Natarajan was not even in the office.
- 3- Violations of the public information act.
- 4- Dr. Natarajan is signing reports from 2012 and 2013, that he just edited this year, and he is signing them with old dates as if he had finished the case a long time ago. This is falsification of a legal document.



- 5- Inappropriate handling of evidence. When I have confronted him, he states the D.A. knows. I am certain the D.A. is not endorsing these illegal practices.

My concern is that Mr. George stated on Monday, December 29, the first thing he is going to do as part of his investigation is to inform Dr. Natarajan of everything I said. On what world do you start an investigation by informing the party involved???!!!!

Dr. Natarajan is going to deny everything as he has done in other opportunities.

I told Mr. George, even if you do not believe a word of what I told you, you can interview all the employees that have left; the current employees will be afraid of retaliation. I also told him, you can send IT personnel to look into the computers, which by the way, Honey brings her personal laptop every day, and Dr. Natarajan also has a personal computer; neither of these connected to the county's network. He could also interview the law enforcement personnel that attends the autopsies and ask them how are they conducted. Also, install cameras (the cameras in this office DO NOT record).

Other points that I did not discuss with Mr. George are:

- 1- Inappropriate use of county vehicle.
- 2- Waste of resources.
- 3- Performance of procedures NOT indicated on many autopsies.
- 4- Deceptive practices.

As I told commissioner Heinrich, this is the only job where I have been afraid for my life. I know they both hate me because I do not participate on the illegal things they do. If looks could kill I would be dead many times over. All I am asking is a proper investigation. So come Monday, I will be at Mr. Burt's office, as I have been told that Mr. Powell would not be available until January. My cellphone is 713-898-3636 in case any of you wish to talk to me before Monday.

Most sincerely,

Luisa Florez, M.D.  
Deputy Medical Examiner  
Institute of Forensic Sciences  
Lubbock, TX

4434 South Loop 289  
Lubbock, TX 79414  
Office 806-687-9434  
Fax 806-687-9438  
[lflorez@co.lubbock.tx.us](mailto:lflorez@co.lubbock.tx.us)

**From:** Luisa Florez  
**Sent:** Monday, January 26, 2015 8:09 AM  
**To:** Neal Burt  
**Subject:** Meeting

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Good morning Mr. Burt,  
Since our meeting in December I had informed you they was going to be retaliation.  
I have enough evidence to show you there is not only retaliation but also harassment. I am not  
planning to sue the county, but I would like for my counselor to attend the meeting.  
Thank you

Luisa Florez



**From:** Luisa Florez  
**Sent:** Wednesday, February 04, 2015 6:44 PM  
**To:** Matt Powell  
**Subject:** Retaliation

---

Dear Mr. Powell,  
You should receive the original in the mail tomorrow morning.

Luisa Florez, M.D.  
Deputy Medical Examiner  
Institute of Forensic Sciences  
Lubbock, TX

4434 South Loop 289  
Lubbock, TX 79414  
Office 806-687-9434  
Fax 806-687-9438  
[lflorez@co.lubbock.tx.us](mailto:lflorez@co.lubbock.tx.us)



Matt Powell Criminal District Attorney  
Lubbock County  
904 Broadway - 2nd floor

Dear Mr. Powell,

As you know, I brought to your attention, in good faith, several issues regarding illegal and substandard practices in the Lubbock County Medical Examiner's Office in late 2014. I believed that these illegal and substandard practices were jeopardizing your efforts as a prosecutor to the extent you were relying on the Medical Examiner's office to provide evidence and opinions regarding the cause of death. You had enforcement power to investigate and stop these illegal and substandard practices. I also reported these issues to the county commissioners.

My concerns reflected poorly on Dr. Natarajan. I asked that any investigation of my concerns be kept confidential until the investigation was finalized. I warned the Lubbock County Human Resources Director Greg George, that if Dr. Natarajan and Honey Smith became aware that I had blown the whistle on their illegal and substandard practices, they would definitely retaliate against me. Since Dr. Natarajan and Honey Smith were informed around January 20, 2015 that I had complained to the DA, Human Resources and the Commissioners about the Medical Examiner's office illegal and substandard practices, both Dr. Natarajan and Honey immediately began a relentless course of retaliation against me. The retaliation at this point focuses on my performance. Prior to them finding out I complained to the DA and the county commissioners, Dr. Natarajan and Honey had not been at all critical of my performance. In fact on November 5, 2014 I received a good evaluation in front of two of the Commissioners. Attached are some emails that will prove the retaliation.

I am asking you to investigate this retaliation and if you find that retaliation has in fact occurred, prosecute this under Texas Government Code §554.008 Civil Penalty. If you do not believe that you are the appropriate prosecuting attorney to handle this please let me know in writing within 10 days so that I can raise this issue with the Attorney General of Texas as per the statute.

Thank you for your attention.

Luisa Florez, M.D.

**From:** Luisa Florez  
**Sent:** Friday, February 13, 2015 11:09 AM  
**To:** Greg George  
**Subject:** FW: Retaliation

Mr. George,

Over a week ago I submitted a letter to Mr. Matt Powell to inform him of the retaliation ensued by Dr. Natarajan and Honey Smith after I complained of their illegal activities.

So far I have not received a response. Hereby I am filing a grievance against the above mentioned for retaliation.

Please let me know if there is any additional procedure as I have been informed by Honey that this office does not have separate grievance procedures and I was advised to deal directly with you.

Thank you,

Luisa Florez, M.D.  
Deputy Medical Examiner  
Institute of Forensic Sciences  
Lubbock, TX

4434 South Loop 289  
Lubbock, TX 79414  
Office 806-687-9434  
Fax 806-687-9438  
[lflorez@co.lubbock.tx.us](mailto:lflorez@co.lubbock.tx.us)



From: [luflorc@hotmail.com](mailto:luflorc@hotmail.com)  
To: [ggeorge@co.lubbock.tx.us](mailto:ggeorge@co.lubbock.tx.us)  
Subject: Follow up on grievance  
Date: Sat, 21 Feb 2015 15:49:36 +0000

Dear Mr. George,  
I have not gotten a response to my question about whether I need to do anything more to proceed with the grievance against Dr. Natarajan and Honey. Unless I hear from you in writing otherwise, I will consider the grievance to have been formally started when I first requested it on 2/13/2015.  
Thank you,  
Luisa Florez

From: [GGeorge@co.lubbock.tx.us](mailto:GGeorge@co.lubbock.tx.us)  
To: [luflorc@hotmail.com](mailto:luflorc@hotmail.com)  
CC: [NBurt@co.lubbock.tx.us](mailto:NBurt@co.lubbock.tx.us); [MVaughan@co.lubbock.tx.us](mailto:MVaughan@co.lubbock.tx.us)  
Date: Tue, 3 Mar 2015 10:10:47 -0600  
Subject: RE: Following on grievance

Thank you for your patience during this process. I will communicate with you soon on the issues you raise in this email.

Greg George, PHR  
Human Resources Director  
Lubbock County  
(806)775-1690  
(806)775-7977 FAX

**"This message contains information which may be confidential and privileged. Unless you are the addressee (or authorized to receive for the addressee), you may not use, copy or disclose to anyone the message or any information contained in the message. If you have received the message in error, please advise the sender by reply e-mail and delete the message."**

From: Luisa Florez [<mailto:luflorc@hotmail.com>]  
Sent: Monday, March 02, 2015 3:16 PM  
To: Greg George  
Subject: Following on grievance

Dear Mr. George,



I have instituted a grievance under the county's grievance procedure. However, nothing seems to be happening; or at least I have not been informed despite my multiple requests.

Do you intend to give me a fair hearing?

Do you intend to allow me to state my case regarding Dr. Natarajan's and Honey's retaliation against me?

Do you intend to investigate? Do you intend to interview any witnesses? If so, then when is the hearing?

When can I present my side of the story in a fair forum?

When will you investigate? When will you talk to any witnesses other than Dr. Natarajan and Honey?

Please give me some feedback on the how this grievance will go forward. Please give this guidance in writing.

Thank you.

Luisa Florez

From: [luflorc@hotmail.com](mailto:luflorc@hotmail.com)

To: [ggeorge@co.lubbock.tx.us](mailto:ggeorge@co.lubbock.tx.us)

Subject: Still waiting

Date: Thu, 19 Mar 2015 14:52:23 +0000

**Dear Mr. George,**

**It has been now 5 weeks since I was placed on leave and I have not heard anything about any kind of hearing or review of my grievance regarding retaliation against me by Dr. Natarajan and Honey. I want very much to tell my side of the story before any final decision is made. So far, other than me telling you that retaliation would occur as soon as you told Dr. Natarajan about my complaint, telling you that it in fact happened as soon as you told him and asking you to initiate a grievance regarding the retaliation, no one has asked me about the facts that support my retaliation claim. In all fairness, I deserve a chance to explain what has happened and why it is retaliation.**

**Thank you,**

**Luisa Florez**