

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

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IN THE  
SUPREME COURT OF THE UNITED STATES

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**DONOVAN JACOB FARR**  
*Petitioner*

v.

**THE STATE OF TEXAS**  
*Respondent*

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APPENDIX

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- A. Texas Court of Criminal Appeals' order denying Applicant's Second Amended Application for Writ of Habeas Corpus. *Ex parte Farr*, 2025 WL 325862 (Tex. Crim. App. Jan. 29, 2025) (per curiam) (not designated for publication).
- B. Trial Court's Findings of Facts, Conclusions of Law, and Order Recommending Relief, *State of Texas v. Donovan Jacob Farr*, Cause No. 1675614-D, 209<sup>th</sup> Judicial District Court, Oct. 31, 2024.
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E. 209<sup>th</sup> Judicial District Court's Judgment, Apr. 1, 2022.

## **Appendix A**

Texas Court of Criminal Appeals' order denying Applicant's Second Amended Application for Writ of Habeas Corpus. *Ex parte Farr*, 2025 WL 325862 (Tex. Crim. App. Jan. 29, 2025) (per curiam) (not designated for publication)



# IN THE COURT OF CRIMINAL APPEALS OF TEXAS

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**NO. WR-94,318-04**

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**EX PARTE DONOVAN JACOB FARR, Applicant**

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**ON APPLICATION FOR A WRIT OF HABEAS CORPUS  
CAUSE NO. 1675614-D IN THE 209TH DISTRICT COURT  
HARRIS COUNTY**

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*Per curiam.* NEWELL, J., dissented.

## **O R D E R**

Applicant pleaded guilty to tampering with a governmental record and was placed on four years' deferred adjudication community supervision. Later, finding that Applicant had violated the terms of community supervision, the trial court adjudicated Applicant's guilt and sentenced him to ten years' imprisonment. The First Court of Appeals affirmed his conviction. *Farr v. State*, No. 01-22-00318-CR (Tex App.—Houston [1st], August 3, 2023, no pet.). Applicant filed this application for a writ of habeas corpus in the county of conviction, and the district clerk forwarded it to this Court.

*See* TEX. CODE CRIM. PROC. art. 11.07.

The trial court has entered findings of fact and conclusions of law. The court recommends granting relief on Applicant's allegation that he would not have pleaded guilty if defense counsel had

informed him that the State was unable to prove an element of the charged offense. *See Alfaro-Jimenez v. State*, 577 S.W.3d 240, 245 (Tex. Crim. App. 2019) (finding legally insufficient evidence because, by indicting a defendant under Texas Penal Code section 37.10(a)(5), the State was required to prove that the record at issue was an actual governmental record, not merely that the defendant intended the record be taken as a genuine governmental record). However, the trial court also recognizes that the State dismissed two pending felonies in exchange for Applicant’s guilty plea in this case.

If defense counsel had advised Applicant that the State could not prove an element of the charged offense, professionally reasonable counsel also would have advised Applicant that the State could amend or refile the indictment. *Cf. United States v. Goodwin*, 457 U.S. 368, 381 (1982) (in the course of preparing for trial, the prosecutor’s assessment of the case may fluctuate as additional evidence is uncovered); *see also Ex parte Thompson*, 179 S.W.3d 549, 560 (Tex. Crim. App. 2005) (“if a defendant hypothesizes a different strategy or move by his pawn or queen, the State would have altered its strategy and made a different move with its chess pieces as well.”). Professionally reasonable defense counsel would have discovered the potential evidentiary problem, but given the facts of the case, counsel would still have advised Applicant that the State could amend the indictment and prove its case.

Even if the State had been unable to prove an element of the offense, the facts of the case supported Applicant’s guilt under other statutory provisions. *See* TEX. PENAL CODE § 37.10(a)(2) (a person commits an offense if he “makes, presents, or uses any record, . . . with knowledge of its falsity and with intent that it be taken as a genuine governmental record.”); TEX. PENAL CODE § 32.51(b) (a person commits an offense if the person, with the intent to harm or defraud another,

possesses or uses an item of identifying information of another person without the other person's consent).

Applicant has not shown that defense counsel should have advised him that the State could not prove that he used an actual governmental record, or that if counsel had done so, Applicant would have pleaded not guilty and insisted on going to trial. *See Ex parte Barnaby*, 475 S.W.3d 316, 324 (Tex. Crim. App. 2015). Therefore, Applicant has not shown ineffective assistance of counsel.

Based on this Court's independent review of the entire record, relief is denied.

Filed: JANUARY 29, 2025

Do not publish

## **Appendix B**

Trial Court's Findings of Facts, Conclusions of Law, and Order Recommending Relief, *State of Texas v. Donovan Jacob Farr*, Cause No. 1675614-D, 209<sup>th</sup> Judicial District Court, Oct. 31, 2024, unreported.

CAUSE NO. 16756140101D

EX PARTE

§ IN THE 209th DISTRICT COURT

ADDO  
PCWFF  
991

DONOVAN FARR,  
Applicant

§ HARRIS COUNTY, TEXAS

§ OF

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

The Court has considered the second amended application for writ of habeas corpus, the affidavit and unsworn declaration of Wayne Heller, the affidavit of Neil Krugh, and official court records in the above-captioned cause and cause numbers 1675614, 1675144, 1688791, 1713802, 1723393, 1737445, and 1752958. The Court finds that there are no controverted, previously unresolved facts material to the legality of the applicant's confinement which require an evidentiary hearing and recommends that the Court of Criminal Appeals grant relief based on the following findings of fact and conclusions of law:

**FINDINGS OF FACT**

1. The applicant, Donovan Farr, is confined pursuant to the judgment and sentence of the 209th District Court of Harris County, Texas, in cause number 1675614(the primary case).
2. On September 9, 2020, a grand jury indicted the applicant with tampering with a governmental record. Specifically, the indictment alleged that the applicant "unlawfully, intentionally and knowingly present and use a license, to-wit: Texas Driver's License attached hereto as Exhibit A, a governmental record, with knowledge of its falsity and the actions of the [applicant] was done with the intent to defraud and harm another."

3. The indictment alleged an offense under Tex. Penal Code § 37.10 (a)(5)<sup>1</sup>.
4. The trial court, Judge Brian Warren presiding, appointed Wayne Heller to represent the applicant in the primary case.
5. Judge Warren also appointed Heller to represent the applicant in two un-related cases: cause numbers 1675144 (state jail felony theft) and 1688791 (third degree felon in possession of a firearm).
6. On January 5, 2021, the applicant pled guilty, without an agreed recommendation on punishment, to tampering with a government record as charged in the indictment in the primary case.
7. The State dismissed cause numbers 1675144 (theft) and 1688791 (felon in possession of a firearm) in exchange for the applicant's guilty plea in the primary case. *Applicant's Exhibit "4", Unsworn Declaration of Wayne Heller.*
8. Judge Warren withheld a finding of guilt and placed the applicant on a four (4) year deferred adjudication community supervision.
9. On January 4, 2022, the State filed an Amended Supplemental #2 Motion to Adjudicate Guilt alleging that the applicant violated the terms and conditions of his deferred adjudication community supervision by committing two offenses: Assault of a Public Servant and Fraudulent Use of Identifying Information.
10. Judge Warren appointed Neil Krugh to represent the applicant in the motion to adjudicate proceeding.
11. Judge Warren also appointed Krug to represent the applicant in cause numbers 1752958 (Fraudulent Use of Identifying Information) and 1737445 (Assault of a Public Servant).
12. On April 1, 2022, following a hearing on the State's motion to adjudicate guilt, Judge Warren sentenced the applicant to ten (10) years confinement in the Texas Department of Criminal Justice—Institutional Division.
13. The First Court of Appeals affirmed the applicant's conviction on August 3, 2023, and issued its mandate on October 18, 2023. *Farr v. State*, No. 01-22-

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<sup>1</sup> Unless otherwise indicated, any reference to § 37.10 refers to Tex. Penal Code § 37.10.

00318-CR, 2023 WL 4937498 (Tex. App.—Houston [1st Dist.] August 3, 2023, pet. ref'd) (mem. op., not designated for publication).

14. The Court of Criminal Appeals (“CCA”) dismissed three prior writ applications, in cause nos. 1675614-A, 1675614-B, and 1675614-C.
15. On March 21, 2024, the applicant filed a *pro se* application for writ of habeas corpus.
16. On March 22, 2024, Judge Warren referred the writ to an associate judge for resolution.
17. On April 29, 2024, and May 6, 2024, respectively, the State filed an Answer and Proposed Findings of Fact and Conclusions of Law recommending a denial.
18. On May 7, 2024, Judge Warren appointed Brittany Lacayo to represent the applicant in the instant writ.
19. The associate court designated issues and ordered Heller and Krugh to file affidavits (or unsworn declarations) responding to the applicant’s claims.
20. On July 26, 2024, Heller filed an affidavit responding to the applicant’s claims.
21. Heller’s July 26, 2024 affidavit is credible.
22. On August 1, 2024, Krugh filed an affidavit responding to the applicant’s claims.
23. Krugh’s August 1, 2024 affidavit is credible.
24. On August 31, 2024, the State filed Supplemental Proposed Findings of Fact and Conclusions of Law recommending a denial.
25. On September 12, 2024, Lacayo filed an amended application for writ of habeas corpus alleging one ground for relief – that Krugh was ineffective at the motion to adjudicate hearing.
26. On October 9, 2024, Lacayo filed a second amended application for writ of habeas corpus alleging four grounds for relief: (1) ineffective assistance of counsel at trial; (2) absolute innocence; (3) actual innocence; and (4) ineffective assistance of counsel at the motion to adjudicate hearing.

27. Lacayo attaches an Unsworn Declaration that Wayne Heller executed on October 7, 2024 in support of the second amended application. *Applicant's Writ Exhibit "4", Unsworn Declaration of Wayne Heller.*
28. Heller's October 7, 2024 Unsworn Declaration credible.

INEFFECTIVE ASSISTANCE OF COUNSEL AT TRIAL

29. At the time Heller advised the applicant to plead guilty, Heller was not aware that the identification card the applicant used did not qualify as a governmental record as charged in the indictment. *Applicant's Writ Exhibit "4", Unsworn Declaration of Wayne Heller.*
30. At the time Heller advised the applicant to plead guilty, Heller was not aware of *Alfaro-Jiminez v. State*, 577 S.W.3d 240 (Tex. Crim. App. 2019). *Applicant's Writ Exhibit "4", Unsworn Declaration of Wayne Heller.*
31. Heller did not research the requirements for a conviction under Texas Penal Code § 37.10 (a)(5). *Applicant's Writ Exhibit "4", Unsworn Declaration of Wayne Heller.*
32. If Heller had known the State's evidence was legally insufficient to convict the applicant as charged in the indictment, Heller would not have advised the applicant to plead guilty. *Applicant's Writ Exhibit "4", Unsworn Declaration of Wayne Heller.*
33. The applicant claims he would not have pleaded guilty but would have proceeded to trial had Heller explained the law in relation to the facts. *Applicant's Exhibit "1", October 8, 2024 Unsworn Declaration of Donovan Farr.*
34. The court questions the credibility of the applicant's claim that he would not have pleaded guilty but would have proceeded to trial had Heller explained the law in relation to the facts considering that the State dismissed cause numbers 1675144 (theft) and 1688791 (felon in possession of a firearm) in exchange for the applicant's guilty plea.
35. Had the State proceeded in cause numbers 1675144 and 1688791, and subsequently obtained convictions in each cause, the trial court would have had the discretion to cumulate the sentences pursuant to Tex. Code Crim. Proc. Ann. art. 42.08.

36. By pleading guilty, the applicant avoided two additional felony convictions and the possibility of additional prison time.
37. Heller's failure to research the applicable law and advise the applicant accordingly was deficient.
38. Heller's deficient conduct prejudiced the applicant as the applicant pled to, and was ultimately convicted of, an offense that the evidence did not support.

ABSOLUTE INNOCENCE

39. The State charged the applicant with tampering with a governmental record pursuant to § 37.10 (a)(5).
40. An offense under § 37.10 (a)(5) is a third degree felony unless the actor's intent is to defraud or harm another, in which event the offense is a second degree felony. § 37.10 (c)(2)(A).
41. The evidence was legally insufficient to support the applicant's conviction as indicted.
42. The applicant used/presented a fake Texas Driver's License<sup>2</sup> – a document created to look like an official Texas Driver's License – in order to purchase a vehicle.
43. The applicant's conduct constitutes tampering with a governmental record pursuant to § 37.10 (a)(2) which provides that a person commits tampering with a governmental record if they present, or use any record, document, or thing with knowledge of its falsity and with intent that it be taken as a genuine governmental record.
44. Except as provided by Subdivisions (2), (3), (4), (5), and (6), and by Subsection (d), an offense under § 37.10 (a)(2) is a Class A misdemeanor unless the actor's intent is to defraud or harm another, in which event the offense is a state jail felony. § 37.10 (c)(1).
45. Although the evidence is not sufficient to support the conviction as indicted, the evidence is sufficient to support a conviction pursuant to § 37.10 (a)(2).

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<sup>2</sup> The State's Habeas Prosecutor spoke with the arresting officer and confirmed that the license the applicant used was not a governmental record.

ACTUAL INNOCENCE

46. The applicant does not present any new evidence that establishes he is actually innocent.

INEFFECTIVE ASSISTANCE OF COUNSEL AT MOTION TO ADJUDICATE HEARING

47. The applicant claims Krugh failed to explain the State's evidence and failed to convey the State's 2-year plea offer prior to the motion to adjudicate hearing. *Applicant's Writ at 12-13.*
48. Krugh discussed the State's charges with the applicant. *Krugh's August 1, 2024 Affidavit.*
49. It was the applicant's decision to proceed with the motion to adjudicate hearing. *Krugh's August 1, 2024 Affidavit.*
50. On March 1, 2022, the State offered to resolve the Motion to Adjudicate for 2 years in the Texas Department of Corrections. *Krugh's August 1, 2024 Affidavit.*
51. The applicant rejected the State's 2-year offer. *Krugh's August 1, 2024 Affidavit.*
52. The applicant's claim that Krugh failed to convey the State's 2-year plea offer prior to the motion to adjudicate hearing is not persuasive.
53. Assuming, without finding that Krugh failed to convey the State's 2-year plea offer, the applicant fails to show the trial court would have accepted it.
54. Judge Warren presided over the applicant's guilty plea and was aware that the State dismissed cause numbers 1675144 (state jail felony theft) and 1688791 (third degree felon in possession of a firearm) in conjunction with the plea.
55. Judge Warren gave the applicant multiple chances while on deferred adjudication despite the applicant committing new law violations (Unauthorized Use of a Motor Vehicle and Assault on a Public Servant) on separate occasions while on community supervision.
56. After the motion to adjudicate hearing, Judge Warren assessed punishment at 10 years of confinement despite the State's suggestion that he assess punishment at 2 years of confinement.

57. The applicant fails to show Judge Warren would have accepted a 2-year agreement had the applicant accepted the State's offer.
58. The applicant fails to show Krugh's conduct was deficient.
59. The applicant fails to show harm as a result of Krugh's performance.

## **CONCLUSIONS OF LAW**

### **INEFFECTIVE ASSISTANCE OF COUNSEL**

1. In order to prevail on a claim of ineffective assistance of trial counsel, the applicant must prove that trial counsel's representation was deficient, and that the deficient performance prejudiced the defense. *Strickland v. Washington*, 466 U.S. 668, 687 (1984).
2. Trial counsel's representation is deficient if it falls below an objective standard of reasonableness. *Id.* at 688.
3. In order to establish prejudice, the applicant must show a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different. *Id.* at 694.
4. The applicant was denied the effective assistance of counsel at the time of his guilty plea. *Id.*
5. In all things, the applicant fails to show he was denied the effective assistance of counsel at the motion to adjudicate hearing.

### **ABSOLUTE INNOCENCE**

6. “[I]n an ‘absolute innocence’ scenario, the conduct the State charges the defendant with is not an offense.” *Ex parte Reeder*, 691 S.W.3d 628, 639 (Tex. Crim. App. 2024) (Keller, P.J., concurring).
7. Because the applicant fails to show the conduct the State charged him with is not an offense, the applicant fails to show he is absolutely innocent.

ACTUAL INNOCENCE

8. There are two types of actual innocence claims in Texas: *Herrera* claims and *Schlup* claims. *Herrera v. Collins*, 506 U.S. 390 (1993); *Schlup v. Delo*, 513 U.S. 298 (1995).
9. *Herrera* claims are bare innocence claims based on newly discovered evidence.
10. *Schlup* claims involve a procedural claim of innocence.
11. To prevail on a *Herrera* claim of actual innocence, an applicant must establish by clear and convincing evidence that no reasonable juror would have convicted him in light of new evidence. *Ex parte Elizondo*, 947 S.W.2d 202, 205 (Tex. Crim. App. 1996).
12. "Newly discovered evidence" refers to evidence that was not known to the applicant at the time of trial and could not be discovered by exercising due diligence. *Ex parte Brown*, 205 S.W.3d 538, 545 (Tex. Crim. App. 2006).
13. Because the applicant does not present any new evidence that establishes his innocence, he fails to show he is actually innocent.
14. Because the applicant was denied the effective assistance of counsel prior to his guilty plea, the applicant is entitled to habeas relief.

Accordingly, this court recommends that the Texas Court of Criminal Appeals grant relief.

## **ORDER**

THE CLERK IS **ORDERED** to prepare a transcript of all papers in cause number 16756140101D and transmit same to the Court of Criminal Appeals as provided by Tex. Code Crim. Proc. Ann. art. 11.07. The transcript shall include certified copies of the following documents:

1. The Application for Writ of Habeas Corpus and each Amended Application;
2. The State's Original Answer and any attached Exhibits;
3. The Court's Findings of Fact, Conclusions of Law, and Order;
4. The State's Amended Proposed Findings of Fact, Conclusions of Law and Order; and
5. The applicant's Proposed Findings of Fact and Conclusions of Law.

THE CLERK is **ORDERED** to send a copy of this order to the applicant's counsel, and to counsel for the State as follows:

Brittany Lacayo (Applicant's Counsel)  
Brittany.Lacayo@pdo.hctx.net

Jill Burdette (State)  
Burdette\_Jill@dao.hctx.net

**By the following signature, the Court adopts the State's Amended Proposed Findings of Fact, Conclusions of Law and Order in Cause Number 16756140101D.**

Signed on the \_\_\_\_\_ day of \_\_\_\_\_, 2024.

Signed:  
10/31/2024



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JUDGE PRESIDING

**CERTIFICATE OF SERVICE**

I, Jill Burdette, certify that on October 28, 2024, I directed the electronic filing service provider efile.tx.gov to electronically serve a copy of the State's Amended Proposed Findings of Fact, Conclusions of Law, and Order on the applicant's habeas attorney, Brittany Lacayo, Harris County Public Defender's Office, 1310 Prairie St., 13<sup>th</sup> Floor, Houston, TX 77002, at Brittany.Lacayo@pdo.hctx.net.

Signed October 28, 2024.

*Jill Burdette*  
Jill Burdette  
Assistant District Attorney  
Harris County  
1201 Franklin, Suite 600  
Houston, Texas 77002  
Burdette\_Jill@dao.hctx.net  
(713) 274-5990  
Texas Bar ID#24055492



I, Marilyn Burgess, District Clerk of Harris County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date.

Witness my official hand and seal of office this April 23, 2025

Certified Document Number: 117313977 Total Pages: 10

Marilyn Burgess, DISTRICT CLERK  
HARRIS COUNTY, TEXAS

**In accordance with Texas Government Code 51.301 and 406.013 electronically transmitted authenticated documents are valid. If there is a question regarding the validity of this document and or seal please e-mail [support@hcdistrictclerk.com](mailto:support@hcdistrictclerk.com)**

## **Appendix C**

Texas Court of Criminal Appeals' denial of Applicant's Suggestion to  
Reconsider on the Court's own Motion, Mar. 26, 2025, unreported.

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



**3/26/2025**

**FARR, DONOVAN JACOB Tr. Ct. No. 1675614-D WR-94,318-04**

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

Deana Williamson, Clerk

DONOVAN JACOB FARR  
POLUNSKY UNIT - TDC # 2389193  
3872 FM 350 S.  
LIVINGSTON, TX 77351

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

**3/26/2025**

**FARR, DONOVAN JACOB** Tr. Ct. No. **1675614-D** **WR-94,318-04**

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



Deana Williamson, Clerk

BRITTANY LACAYO  
ASSISTANT PUBLIC DEFENDER  
1310 PRAIRIE 4TH FLOOR  
HOUSTON, TX 77002  
\* DELIVERED VIA E-MAIL \*

## **Appendix D**

Opinion from the Texas Court of Appeals affirming the trial court's judgment. *Farr v. State*, No. 01-22-00318-CR, 2023 WL 4937498 (Tex. App. – Houston [1st Dist.] Aug. 3, 2023, no pet.) (mem. op., not designed for publication).

2023 WL 4937498

Only the Westlaw citation is currently available.

SEE TX R RAP RULE 47.2 FOR  
DESIGNATION AND SIGNING OF OPINIONS.

**Do not publish. TEX. R. APP. P. 47.2(b).**

Court of Appeals of Texas, Houston (1st Dist.).

Donovan Jacob FARR, Appellant

v.

The STATE of Texas, Appellee

NO. 01-22-00318-CR

1

Opinion issued August 3, 2023

**On Appeal from the 209th District Court, Harris County,  
Texas, Trial Court Case No. 1675614**

**Attorneys and Law Firms**

Abbie Miles Russell, for Appellant.

Ryan C. Kent, Kim K. Ogg, for Appellee.

Panel consists of Justices [Goodman](#), [Landau](#), and [Rivas-Molloy](#).

**MEMORANDUM OPINION**

[Gordon Goodman](#), Justice

\*1 Donovan Jacob Farr entered a plea of guilty to the offense of tampering with a government record. The trial court withheld a finding of guilt and placed Farr on deferred-adjudication community supervision for a period of four years. Later, finding that Farr had violated the terms of his community supervision, the trial court adjudged him guilty of the offense and assessed his punishment at ten years in prison. Farr appeals, arguing in a single issue that the trial court abused its discretion in finding that he had violated the terms of his community supervision. We affirm.

**BACKGROUND**

The State moved to revoke Farr's deferred-adjudication community supervision and adjudicate his guilt. It argued

that he had violated the terms of his community supervision by violating [Section 32.51 of the Texas Penal Code](#), which makes it an offense to fraudulently use or possess another's identifying information.

Farr pled not true to the State's allegations. And the trial court, sitting as factfinder, held an evidentiary hearing to decide whether the allegations were true.

The State called three witnesses, the first of which was Jackie Scurry, the court liaison officer for the 209th District Court. As part of her job, she is the custodian of records for probation-related documents. Scurry testified that Farr had been placed on deferred-adjudication community supervision for a period of four years in connection with a prior case alleging that he tampered with a government record. She further stated that Farr's period of deferred adjudication had not yet concluded.

Scurry explained that the 209th District Court imposed terms and conditions on Farr in connection with the deferred adjudication and that these terms and conditions had been explained to Farr. Farr indicated that he understood the terms and conditions by signature. One of these terms and conditions was that he not commit any criminal offenses. But Farr did not comply, specifically by committing the offense of fraudulently using or possessing another's identifying information.

A copy of the district court's order of deferred adjudication was admitted into evidence without objection. Accompanying the order was a document entitled Conditions of Community Supervision. Its first term provides that Farr "[c]ommit no offense against the laws of this or any other State or of the United States."

The State's second witness was D. Frederick, a peace officer with the Pasadena Police Department. He conducted a traffic stop when Farr made an unsafe lane change and ultimately arrested Farr due in part to an outstanding warrant.

During the traffic stop, Frederick searched Farr's vehicle. He found two checks in the center console that he "believed to be fraudulent at the time." Once at the jail for booking, Frederick searched Farr's wallet for contraband and found "several IDs and debit cards that did not belong to him." The names of the persons associated with these IDs and debit cards were Camron Finney, Ikoreous Youngblood, Daniel Reyes, Christian Saenz, Joshua Blackmon, and Danielle Lewis.

\*2 Farr told Frederick that he purposely obtained the card belonging to Christian Saenz under a false name. That is, Farr claimed that he was Saenz, explaining that he used a false name in this case because he was a convicted felon under his own name. Farr claimed Reyes was his cousin. He further claimed Finney was his nephew. Farr gave no explanation as to why he had the ones relating to Blackmon or Lewis, but he claimed that Youngblood "was possibly his sister's boyfriend."

On cross-examination, Frederick stated with respect to the two checks that he "passed the investigation off to our financial crimes detectives." Thus, Frederick himself did not know one way or the other whether the checks were fraudulent.

Frederick also agreed that he called a second officer, K. Adams, to the scene of the traffic stop. Frederick did not recall whether he or Adams first collected Farr's wallet during the traffic stop. But body-camera footage showed that Adams did so.

Adams conducted an inventory of the contents of Farr's vehicle. Frederick admitted he "wasn't aware exactly" what Adams did during this process. Defense counsel asked whether it was possible that Adams "may have found some more of those cards, like the ones you found, and then put them in" Farr's wallet "just to condense them." Frederick replied "anything is possible" but said he did not know.

Farr told Frederick the vehicle he was driving belonged to his brother. Frederick testified that he runs the vehicle registration during all traffic stops, but he could not recall the results here. So, he did not know to whom Farr's vehicle was registered. Nor was this detail memorialized in Frederick's report about the stop.

Finally, the State called Ikoreous Youngblood to the stand. Youngblood testified that he did not know Farr. He said he left his ID in his car, which was stolen. Youngblood said he never gave Farr or anyone else permission to have his ID.

Farr then testified in his own defense. The day he was stopped, he was out on bond and did not have his own vehicle, so he had borrowed his brother's vehicle.

Farr testified he did not know about the checks in the vehicle's console. He denied that Youngblood's ID had been in his

wallet. He said he did not know how it got in there. Farr said that none of the other IDs or debit cards had been in his wallet either. But he conceded on cross-examination that his charge for tampering with a government record arose from an attempt to buy a vehicle with a fraudulent ID.

In his closing argument, defense counsel argued that the trial court should credit Farr's testimony that the various IDs and debit cards in others' names were not in his wallet. Defense counsel maintained that the IDs and cards may well have just been in the vehicle and then placed in Farr's wallet by Officer Adams when he inventoried the vehicle so as to collect them all in a single place. According to defense counsel, the IDs and debit cards may have belonged to Farr's brother instead.

The trial court found by a preponderance of the evidence that the State's allegation that Farr had committed the offense of fraudulently using or possessing identifying information was true. Thus, the court adjudged Farr guilty of the offense for which he had been on deferred-adjudication community supervision—tampering with a government record—and sentenced him to ten years of imprisonment.

## DISCUSSION

Farr argues that the evidence is legally insufficient to show that he violated the terms of his community supervision by committing the offense of using or possessing another's identifying information. In particular, he argues that the State did not prove by a preponderance of the evidence that he possessed another's identifying information with the specific intent to defraud or harm another.

### Standard of Review

\*3 We review a trial court's decision to revoke deferred-adjudication community supervision for an abuse of discretion. *Leonard v. State*, 385 S.W.3d 570, 576 (Tex. Crim. App. 2012). In general, a trial court has the discretion to revoke community supervision when a preponderance of the evidence supports one of the State's allegations that the defendant violated a condition of his community supervision. *Id.*

### Applicable Law

A person commits the offense of fraudulently using or possessing identifying information if, among other things, he, with the intent to harm or defraud another, obtains, possesses, transfers, or uses an item of identifying information of another person without the other person's consent or effective consent. **TEX. PENAL CODE § 32.51(b)(1)**. The general purpose of criminalizing this conduct is to prevent identity theft. *Jones v. State*, 396 S.W.3d 558, 562 (Tex. Crim. App. 2013).

Identifying information is information that alone or in conjunction with other information identifies a person, including a person's name and date of birth or unique electronic identification number, address, routing code, and financial institution account number. **PENAL § 32.51(a)(1)(A), (C)**. The unit of prosecution is "any piece of identifying information enumerated in the statute that alone or in conjunction with other information identifies a person, and does not mean each document containing a group of identifying information," such as each driver's license or check. *Cortez v. State*, 469 S.W.3d 593, 604 (Tex. Crim. App. 2015); *see also Grimm v. State*, 496 S.W.3d 817, 822 (Tex. App.—Houston [14th Dist.] 2016, no pet.) (citing *Cortez* for proposition that "item of identifying information" does not refer to the individual record where the information appears" and observing that "an individual record may actually contain more than one item of identifying information").

One is presumed to have the intent to harm or defraud another if he possesses the identifying information of three or more other persons. **PENAL § 32.51(b-1)(1)**. The other persons must be real ones, not fictional persons. *Jones*, 396 S.W.3d at 563. Otherwise, proof of intent to harm or defraud may be direct or circumstantial. *Sanchez v. State*, 536 S.W.3d 919, 920–21 (Tex. App.—Houston [1st Dist.] 2017, no pet.). To prove the element of intent, the State need not disprove exculpatory explanations offered by the defendant that turn on his credibility. *Id.* at 921–22.

### Analysis

The sole element that Farr challenges on appeal is intent, arguing that the State did not prove he had the intent to harm or defraud another. However, Officer Frederick testified that Farr had in his wallet IDs or debit cards in six different names other than his own: Camron Finney, Ikoreous Youngblood, Daniel Reyes, Christian Saenz, Joshua Blackmon, and Danielle Lewis. Because Farr possessed the identifying information of three or more other persons, the

trial court was entitled to presume that he did so with the intent to harm or defraud. **PENAL § 32.51(b-1)(1)**.

Moreover, even without the aid of the presumption, the trial court could have reasonably inferred an intent to harm or defraud from the evidence. For example, Frederick testified that Farr had claimed that Youngblood might be his sister's boyfriend, as a way of providing an innocent explanation for the possession of his ID. But Youngblood's testimony, which the trial court sitting as factfinder was entitled to credit, refuted Farr's explanation and detracted from Farr's credibility. *See Bell v. State*, 649 S.W.3d 867, 898 (Tex. App.—Houston [1st Dist.] 2022, pet. ref'd) (trial court, as trier of fact in revocation proceeding, assesses credibility of witnesses and decides weight their testimony merits, and appellate court must examine evidence in light most favorable to trial court's revocation order on appeal).

\*4 Similarly, if the trial court credited Frederick's testimony, Farr himself acknowledged that he possessed one of the IDs for the explicit purpose of fraud, stating that he obtained the Saenz ID under that name, rather than his own, to avoid the disclosure of his true identity on account of his status as a convicted felon. Based on this testimony, the trial court could have reasonably inferred that Farr also possessed other IDs in different names for the purpose of committing identity fraud. Though a factfinder is never bound to apply it, the adage "false in one, false in all" is often very persuasive, especially when an evaluation of the truth turns in significant part on credibility. *See Tucker v. State*, 150 S.W.2d 1025, 1029 (Tex. Crim. App. 1941) (jury was entitled to avail itself of adage "false in one, false in all" as to witness's testimony and apparently did so, crediting nothing she said on stand).

Finally, the trial court was not obliged to accept Farr's contrary testimony at the hearing, in which he denied having put the IDs and debit cards in his wallet. Nor was the trial court obliged to accept the defense positions that the IDs and debit cards may have belonged to Farr's brother or that Officer Adams must have put them in Farr's wallet, both propositions for which there is no direct evidence in the record. Nor was the State required to disprove exculpatory explanations of this kind to prove that Farr had the intent to harm or defraud. *See Sanchez*, 536 S.W.3d at 921–22.

We overrule Farr's sole issue on appeal.

**CONCLUSION**

We affirm the trial court's judgment.

**All Citations**

Not Reported in S.W. Rptr., 2023 WL 4937498

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**End of Document**

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## **Appendix E**

209th Judicial District Court's Judgment, Apr. 1, 2022.



CAUSE NO. 167561401010  
INCIDENT NO. /TRN: 9267958925A001

Pgs-4

THE STATE OF TEXAS

v.

FARR, DONOVAN JACOB

STATE ID No.: TX08724333

§ IN THE 209TH DISTRICT  
§  
§ COURT  
§  
§ HARRIS COUNTY, TEXAS  
§

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### JUDGMENT ADJUDICATING GUILT

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Judge Presiding:	<b>BRIAN WARREN</b>	Date Sentence Imposed:	<b>04/01/2022</b>
Attorney for State:	<b>CHANDLER RAIN</b>	Attorney for Defendant:	<b>KRUGH, NEIL ALEXANDER</b>
Date of Original Community Supervision Order:	<u>Statute for Offense:</u>		
<u>1/5/2021</u>	<u>2ND DEGREE FELONY</u>		
Offense for which Defendant Convicted:	<b>TAMPER GOVERNMENT RECORD</b>		
Date of Offense:	<u>Degree of Offense:</u>		
<u>05/16/2020</u>	<u>2ND DEGREE FELONY</u>		
Plea to Motion to Adjudicate:	<u>Findings on Deadly Weapon:</u>		
<b>NOT TRUE</b>	<u>N/A</u>		
Terms of Plea Bargain (if any): or <input type="checkbox"/> Terms of Plea Bargain are attached and incorporated herein by this reference. <b>WITHOUT AGREED RECOMMENDATION - MAJ H</b> Reduced from: N/A			

Punishment and Place of Confinement: **10 YEARS , INSTITUTIONAL DIVISION, TDCJ**

Date Sentence Commences: (Date does not apply to confinement served as a condition of community supervision.)  
**04/01/2022**

THIS SENTENCE SHALL RUN: CONCURRENTLY.

SENTENCE OF CONFINEMENT SUSPENDED, DEFENDANT PLACED ON COMMUNITY SUPERVISION FOR **N/A** .

(The document setting forth the conditions of community supervision is incorporated herein by this reference.)

Fines:	<u>Restitution:</u>	<u>Restitution Payable to:</u> <b>N/A</b>
\$ N/A	\$ N/A	<small>(See special finding or order of restitution which is incorporated herein by this reference.)</small>
Court Costs:	<u>Reimbursement Fees:</u>	
<b>\$ 290.00</b>	<b>\$ 665.00</b>	

Defendant is required to register as sex offender in accordance with Chapter 62, Tex. Code Crim. Proc.

(For sex offender registration purposes only) The age of the victim at the time of the offense was **N/A** .

Page 4 of 4

Total Jail Time Credit: **389 DAYS** If Defendant is to serve sentence in county jail or is given credit toward fine and costs, enter days credited below.  
**N/A DAYS** NOTES: **TOWARD INCARCERATION, FINE, AND COSTS**

Was the victim impact statement returned to the attorney representing the State? **N/A**

(FOR STATE JAIL FELONY OFFENSES ONLY) Is Defendant presumptively entitled to diligent participation credit in accordance with Article 42A.559, Tex. Code Crim. Proc.? **N/A**

The Court previously deferred adjudication of guilt in this case. Subsequently, the State filed a motion to adjudicate guilt.

The case was called for hearing. The State appeared by her District Attorney as named above.

Counsel / Waiver of Counsel (select one)

Defendant appeared with Counsel.  
 Defendant appeared without counsel and knowingly, intelligently, and voluntarily waived the right to representation by counsel in writing in open court.

After hearing and considering the evidence presented by both sides, the Court **FINDS THE FOLLOWING:** (1) The Court previously found Defendant qualified for deferred adjudication community supervision; (2) The Court deferred further proceedings, made no finding of guilt, and rendered no judgment; (3) The Court issued an order placing Defendant on deferred adjudication community supervision for a period of **4 YEARS** ; (4) The Court assessed a fine of

Certified Document Number: 110880109

\$ N/A; (5) While on deferred adjudication community supervision, Defendant violated the conditions of community supervision, as set out in the State's **AMENDED Motion to Adjudicate Guilt**, as follows:  
**COMMITTING AN OFFENSE AGAINST THE STATE OF TEXAS.**

Accordingly, the Court **GRANTS** the State's Motion to Adjudicate. **FINDING** that the Defendant committed the offense indicated above, the Court **ADJUDGES** Defendant **GUILTY** of the offense. The Court **FINDS** that the Presentence Investigation, if so ordered, was done according to the applicable provisions of Subchapter F, Chapter 42A, Tex. Code Crim. Proc.

The Court **ORDERS** Defendant punished as indicated above. After having conducted an inquiry into Defendant's ability to pay, the Court **ORDERS** Defendant to pay the fines, court costs, reimbursement fees, and restitution as indicated above.

**Punishment Options (select one)**

**Confinement in State Jail or Institutional Division.** The Court **ORDERS** the authorized agent of the State of Texas or the County Sheriff to take and deliver Defendant to the Director of the Correctional Institutions Division, TDCJ, for placement in confinement in accordance with this judgment. The Court **ORDERS** Defendant remanded to the custody of the County Sheriff until the Sheriff can obey the directions in this paragraph. Upon release from confinement, the Court **ORDERS** Defendant to proceed without unnecessary delay to the District Clerk's office, or any other office designated by the Court or the Court's designee, to pay or to make arrangements to pay any fines, court costs, reimbursement fees, and restitution due.

**County Jail—Confinement / Confinement in Lieu of Payment.** The Court **ORDERS** Defendant committed to the custody of the County Sheriff immediately or on the date the sentence commences. Defendant shall be confined in the county jail for the period indicated above. Upon release from confinement, the Court **ORDERS** Defendant to proceed without unnecessary delay to the District Clerk's office, or any other office designated by the Court or the Court's designee, to pay or to make arrangements to pay any fines, court costs, reimbursement fees, and restitution due.

**County Jail—State Jail Felony Conviction.** Pursuant to §12.44(a), Tex. Penal Code, the Court **FINDS** that the ends of justice are best served by imposing confinement permissible as punishment for a Class A misdemeanor instead of a state jail felony. Accordingly, Defendant will serve punishment in the county jail as indicated above. The Court **ORDERS** Defendant committed to the custody of the County Sheriff immediately or on the date the sentence commences. Upon release from confinement, the Court **ORDERS** Defendant to proceed without unnecessary delay to the District Clerk's office, or any other office designated by the Court or the Court's designee, to pay or to make arrangements to pay any fines, court costs, reimbursement fees, and restitution due.

**Fine Only Payment.** The punishment assessed against Defendant is for a **FINE ONLY**. The Court **ORDERS** Defendant to proceed immediately to the District Clerk's office, or any other office designated by the Court or the Court's designee, to pay or to make arrangements to pay the fine, court costs, reimbursement fees, and restitution ordered by the Court in this cause.

**Confinement as a Condition of Community Supervision.** The Court **ORDERS** Defendant confined days in as a condition of community supervision. The period of confinement as a condition of community supervision starts when Defendant arrives at the designated facility, absent a special order to the contrary.

**Fines Imposed Include (check each fine and enter each amount as pronounced by the court):**

- General Fine (§12.32, 12.33, 12.34, or 12.35, Penal Code, Transp. Code, or other Code) \$ (not to exceed \$10,000)  
 Add'l Monthly Fine for Sex Offenders (Art. 42A.653, Code Crim. Proc.) \$ **5.00** (\$5.00/permonth of community supervision) Total \$ **Assessed as Cond of CS**  
 Child Abuse Prevention Fine (Art. 102.0186, Code Crim. Proc.) \$ **100.00** (\$100)  
 EMS, Trauma Fine (Art. 102.0185, Code Crim. Proc.) \$ **100.00** (\$100)  
 Family Violence Fine (Art. 42A.504 (b), Code Crim. Proc.) \$ **100.00** (\$100)  
 Juvenile Delinquency Prevention Fine (Art. 102.0171(a), Code Crim. Proc.) \$ **50.00** (\$50)  
 State Traffic Fine (§ 542.4031, Transp. Code) \$ **50.00** (\$50)  
 Children's Advocacy Center Fine - as Cond of CS (Art. 42A.455, Code Crim. Proc.) \$ **Assessed as Cond of CS** (not to exceed \$50)  
 Repayment of Reward Fine (Art. 37.073/42.152, Code Crim. Proc.) \$ (To Be Determined by the Court)  
 Repayment of Reward Fine - as Cond of CS (Art. 42A.301 (b) (20), Code Crim. Proc.) \$ **Assessed as Cond of CS** (not to exceed \$50)

**Execution of Sentence**

The Court **ORDERS** Defendant's sentence **EXECUTED**. The Court **FINDS** that Defendant is entitled to the jail time credit indicated above. The attorney for the state, attorney for the defendant, the County Sheriff, and any other person having or who had custody of Defendant shall assist the clerk, or person responsible for completing this judgment, in calculating Defendant's credit for time served. All supporting documentation, if any, concerning Defendant's credit for time served is incorporated herein by this reference.

**Furthermore, the following special findings or orders apply:**

**SEE THE ATTACHED FIREARM ADMONISHMENT**

Date Judgment Entered: 4/1/2022

BW  
X  
**BRIAN WARREN**  
JUDGE PRESIDING

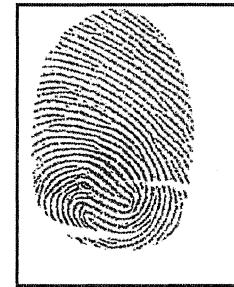
Clerk: S CHARLESTON

Notice of Appeal Filed: **04/26/2022**

Mandate Received: **10/19/2023** Type of Mandate: **AFFIRMANCE**

After Mandate Received, Sentence to Begin Date is: **04/1/2022**

**TO REMAIN THE SAME**  
Jail Credit:        DAYS



Thumbprint

Case Number: 167561401010 Court: 209TH Defendant: **FARR, DONOVAN JACOB**

WRITTEN ADMONITION ON INELIGIBILITY TO POSSESS FIREARM OR  
AMMUNITION

In accordance with Texas Administrative Code §176.1, the Court hereby admonishes you of the following:

1. You are, by entry of order or judgment, ineligible under Texas law to possess a firearm or ammunition.
2. Beginning now, if you possess a firearm or ammunition it could lead to charges against you. If you have questions about how long you will be ineligible to possess a firearm or ammunition, you should consult an attorney.

3. Under Texas Penal Code §46.01(3):

- a. **Firearm** means any device designed, made, or adapted to expel a projectile through a barrel by using the energy generated by an explosion or burning substance or any device readily convertible to that use
- b. **Firearm** does not include a firearm that may have, as an integral part, a folding knife blade or other characteristics of weapons made illegal by Penal Code Chapter 46 and that is (1) an antique or curio firearm manufactured before 1899 or (2) a replica of an antique or curio firearm manufactured before 1899 but only if the replica does not use rim fire or center fire ammunition.

The statutes listed below are a starting point for ineligibility to possess a firearm or ammunition. For more information about the laws that make you ineligible to possess a firearm or ammunition, or for more information on how long your ineligibility to possess a firearm or ammunition lasts, the Court recommends you contact an attorney.

- Code of Criminal Procedure Article 17.292 – Magistrate’s Order for Emergency Protection
- Code of Criminal Procedure Article 42.0131 – Notice for Persons Convicted of Misdemeanors

Involving Family Violence

- Penal Code §46.02 – Unlawful Carrying Weapons
- Penal Code §46.04 – Unlawful Possession of Firearm
- Penal Code §25.07 – Violation of Certain Court Orders or Conditions of Bond in a Family Violence, Child Abuse or Neglect, Sexual Assault or Abuse, Indecent Assault, Stalking, or Trafficking Case
- Family Code §85.026 – Warning on Protective Order

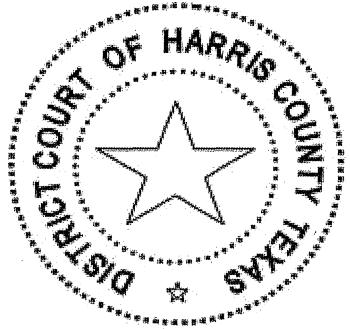
DATE: 04/01/2022



DEFENDANT:

CASE NUMBER: 167561401010

DEFENDANT NAME: FARR, DONOVAN JACOB



I, Marilyn Burgess, District Clerk of Harris County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date.  
Witness my official hand and seal of office this April 23, 2025

Certified Document Number: 110880109 Total Pages: 4

Marilyn Burgess, DISTRICT CLERK  
HARRIS COUNTY, TEXAS

**In accordance with Texas Government Code 51.301 and 406.013 electronically transmitted authenticated documents are valid. If there is a question regarding the validity of this document and or seal please e-mail [support@hcdistrictclerk.com](mailto:support@hcdistrictclerk.com)**