

APPENDIX A

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

FILE COPY

2/9/2026

LANGE, JAMES LOUIS II Tr. Ct. No. **16-2213-CR-B-A-B** **WR-92,067-03**

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

Deana Williamson, Clerk

JAMES LOUIS LANGE II
CLEMENTS UNIT - TDC # 2144325
9601 SPUR 591
AMARILLO, TX 79107-9606

APPENDIX B

IN THE TEXAS COURT OF CRIMINAL APPEALS

**Ex Parte James Louis Lange II,
Applicant**

**APPLICANT'S SECOND SUGGESTION PURSUANT TO RULE 79.2(d)
OF THE TEXAS RULES OF APPELLATE PROCEDURE THAT
THE COURT RECONSIDER ON ITS OWN INITIATIVE ITS
PRIOR DECISION DENYING THE APPLICATION FOR A
WRIT OF HABEAS CORPUS AND FOR EN BANC REVIEW**

TO THE JUSTICES OF THE COURT OF CRIMINAL APPEALS:

COMES NOW, **James Louis Lange II**, Applicant in pro se and assisted by a legal assistant to present this suggestion to reconsider this court's previous denial of applicant's Application for Writ of Habeas Corpus. Applicant hereby requests that this Court reconsider on its own initiative pursuant to Rule 79.2(d) of the Texas Rules of Appellate Procedure its previous decision denying the application for a writ of habeas corpus and for en banc review of that denial. In support of that suggestion, Applicant states as follows:

1.

The trial court originally denied Applicant's Writ of Habeas Corpus. However, this

Court remanded back to the trial court to make findings of fact and conclusions of law as to whether Applicant's plea was involuntary. This Court ultimately denied the Application. **See Exhibit 1, Court of Criminal Appeals Order.**

2.
ARGUMENTS & AUTHORITIES

In support of this suggestion for reconsideration, Applicant incorporates herein by reference as if set forth in full his Memorandum of Law attached to his Application for Writ of Habeas Corpus. Applicant specifically relies on the case law presented in said memorandum. **See Exhibit 2, Memorandum of Law in support of Application for a Writ of Habeas Corpus.**

3.
Trial Court's Findings of Facts and Conclusions of Law
See Exhibit 3, Trial Court's findings of Facts.

The trial court's findings of fact and conclusions of law is contrary to the facts of Applicant's case as follows:

The trial court in her findings of fact and conclusions of law states that trial counsel for the applicant, James Kingman provided an affidavit to this court as to the Applicant's allegations. The Court finds him to be credible. He asserts the Applicant was able to assist him in the preparation of the defense and that the Applicant

understood the nature of the proceedings well enough to answer Counsel's questions.

First, the Affidavit is signed by attorney Sam Fugate who presided over the plea hearing and not James Kingman. Applicant was visited with 2 or 3 other attorney's employed with the LAW OFFICE OF ALEX R. HERNANDEZ, JR., one being Gary Magnuson, and one named John (last name not remembered). However, for sake of argument, Sam Fugate in his affidavit states that Applicant was able to understand the nature of the proceedings and to answer my questions. Despite the assertion above, by attorney Sam Fugate, attorney Gary Magnuson recognized that Applicant is mentally retarded and incompetent and filed three motions as follows: **MOTION TO HAVE DEFENDANT EXAMINED FOR COMPETENCY; DEFENDANT'S MOTION TO DISCOVER EVIDENCE OF INSANITY, INCOMPETENCE OR DIMINISHED MENTAL CAPACITY OF DEFENDANT. NOTICE OF INSANITY DEFENSE. See Exhibits 4, Motions filed by attorney Gary Magnuson. See Exhibit 5, AFFIDAVIT of Sam Fugate.**

In response to this court's order, Judge Crawford states in part: "I do not intend to hold a hearing, if possible, but to rely on affidavits." "I order counsel to provide a response to applicant's claim. If the affidavits are adequate, I will make findings of fact and conclusions of law with them. If not, I will schedule a full hearing and subpoena witnesses."

Judge Crawford finds him (attorney Sam Fugate) to be credible. Judge Crawford makes no mention of the affidavits filed with the writ of habeas corpus application by applicant and applicant's mother, Ann Lange. Judge Crawford takes attorney Sam Fugates' word that applicant was able to assist him in the preparation of the defense and that the applicant understood the nature of the proceedings well enough to answer Counsel's questions. This is clearly contrary to the motions of competency filed by Gary Magnuson. Judge Crawford also refers to Raleigh D. Wood, Ph.D, the licensed psychologist who examined applicant and found him to be competent to stand trial. However, and it should be noted to this Court that Dr. Wood's Competency Evaluation in almost every category states that applicant James Lange was in the **Borderline Range, the 8th percentile and within the poor range**. When asked by Dr. Wood on page 154 capacity to engage in a reasoned choice of legal strategies and options, Dr. Wood writes: "He is unsure of the plea of no contest and when this is explained to him states "I'm not sure I understand." **See Exhibit 6, Competency Evaluation of Dr. Wood.**

Judge Crawford made findings of fact and conclusions of law based on the attorney affidavit alone. Judge Crawford ignored the affidavit of applicant James Lange and applicant's mother, Ann Lange. **Had Judge Crawford scheduled a full hearing and heard the evidence of applicant's competency through his mother**

but also by mental health experts that applicant would not be competent to understand the charges against him or make any rational decision regarding his defense. James Lange was a patient of HEALTHMARK GROUP. They have provided this writer with a Download Letter consisting of 1372 pages regarding the mental health of applicant. This download letter is attached for this Court's purview attached as Exhibit 7.

Although this Court in it's order requesting that the trial court order applicant's attorney to respond to the allegations presented in applicant's 11.07, applicant's grounds for relief were specifically error by the trial court as follows:

GROUND FOR RELIEF NUMBER ONE

Applicant contends that the trial court did not conduct a proper competency inquiry because there was enough evidence to create a bona fide doubt regarding applicant's competency, thereby violating Applicant's rights to due process.

GROUND FOR RELIEF NUMBER TWO

Applicant contends that the trial court should have empaneled a jury for a competency hearing because there was substantial evidence and applicant certainly provided more than none or a scintilla of evidence regarding applicant's competency, thereby violating Applicant's rights to due process.

A fundamental principle of our criminal justice system is that, as a matter of constitutional due process, an incompetent defendant may not stand trial. *See Boyett v State*, 545 S.W. 3d 556, 563 (Tex.Crim.App. 2018); see also *Drope v Missouri*, 420

U.S. 162, 171 (1975) ("It has long been accepted that a person whose mental condition is such that he lacks the capacity to understand the nature and object of the proceedings against him, to consult with counsel, and to assist in preparing his defense may not be subjected to trial.").

The trial court in her findings of fact and conclusions of law refers to Dr. Wood's evaluation of Applicant. As stated above, Dr. Wood's states when asked about Applicant's capacity to engage in a reasoned choice of legal strategies and options, Dr. Wood writes: "He is unsure of the plea of no contest and when this is explained to him states "I'm not sure I understand."

With all due respect to attorney Sam Fugate, there is no way that an attorney, any attorney, who pleads out his or her client that would state that their client didn't understand the proceedings or were not able to assist them. Just because the trial court finds the attorney to be credible does not mean the attorney was right. Applicant's attorney's filed the motions regarding competency because it was readily apparent upon meeting applicant that he is mentally retarded and incompetent. This writer is a volunteer at the Clements Unit where applicant is housed. I met with James Lange and within two minutes of meeting James Lange it was readily apparent to me that James is mentally retarded and incompetent to help his attorney's in any way, shape or form.

Because plea agreements are conceptualized as rational bargains, it is important for courts to satisfy themselves that defendants have exercised free will. A mentally incompetent defendant is legally unable to enter a voluntary plea. In this case the trial court's failure to make a serious inquiry deprived Applicant of his constitutional right to a fair trial, because there was evidence presented that raised a "bona fide doubt" as to Applicant's competence to stand trial, therefore the trial court in this case on its own motion should have impaneled a jury and conducted a sanity hearing pursuant to statute. This omission by the trial court violated Applicant's right to a fair trial and violated Applicant's rights to due process of law.

Disregarding all evidence of competency that the case law in *Boyett, 545 S.W. 3d 564* requires, there was sufficient evidence that Applicant experienced irrational thoughts, was unable to effectively communicate with his counsel, and has an entire life long history of mental illness. This evidence would allow a rational inference that (1) Applicant suffered "some degree of debilitating mental illness," (2) could not effectively assist or effectively comprehend his attorney's advice, and (3) his mental illness was the source of the condition which prevented Applicant from assisting in his own defense.

Applicant asserts that this Court, as case law supports, should determine that Applicant's constitutional rights were abridged by his failure to receive an adequate

hearing on his competence to stand trial and the writ of habeas corpus must issue and Applicant be discharged, unless the State gives him a new trial within a reasonable time.

Applicant would contend that since the trial court failed to hold a formal competency trial by jury, the Applicant should have the opportunity to have all issues which may be determinative of his guilt tried by a state judge or a state jury under appropriate state procedures which conform to the requirements of the Fourteenth Amendment.

PRAYER FOR RELIEF

WHEREFORE, PREMISES CONSIDERED, Applicant prays that this Court appoint counsel who then can arrange and subpoena Applicant's mental health experts and order the trial court to hold a full hearing regarding Applicant's competency to stand trial. Applicant prays that this suggestion for reconsideration be granted in all things.

Respectfully submitted,

James Louis Lange II

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