82,528-01

December 15, 2014

Court of Criminal Appeals
Court clerk
P.O. Box 12308
Austin, TX 78711

Re: Ex parte James Alan McGough
WR-82,528-01

Dear Clerk:

Please find enclosed for filing my pro se Applicant's Motion to Abate and Stay Proceedings.

Please bring this matter to the attention of the Court.

Respectfully,

James Alan McGough
Clements Unit - 1892141
9601 Spur 591
Amarillo, TX 79107-9606

RECEIVED IN
COURT OF CRIMINAL APPEALS

DEC 30 2014

Abel Acosta, Clerk

WR-82,528-01

EX PARTE	§	IN THE
	§	
	§	COURT OF CRIMINAL APPEALS
	§	
JAMES ALAN MCGOUGH	§	AUSTIN, TEXAS

APPLICANT'S MOTION TO ABATE AND STAY PROCEEDINGS

TO THE HONORABLE COURT OF CRIMINAL APPEALS:

Comes Now James Alan McGough "Applicant" in the above styled and numbered cause and pursuant to rule 73 Texas Rules of Appellate Procedure and respectfully moves this Court to abate and stay the pending habeas corpus proceedings and with respect thereto, will show the following:

A. STATEMENT OF THE CASE

1. In cause number 1260107-A from the 338th District Court of Harris County, Texas Applicant filed his Original Application For Writ of Habeas Corpus on March 18, 2013.

2. On April 2, 2013, the State filed it's Original Answer and Proposed Order Designating Issues.

3. Applicant immediately filed his Traverse to the State's Answer.

4. On September 30, 2014, the State filed it's Proposed Findings of Fact & Conclusions of Law.

5. On October 14, 2014 Applicant filed his Objection to the proposed Findings of Fact & conclusions of Law.

6. On October 5, 2014 the trial court adopted the State's Proposed Findings of Fact & Conclusions of law.

B. ARGUMENT & AUTHORITIES

7. The adopted Findings of Fact & Conclusions of Law is not in compliance with Rule 73 of the Texas Rules of Appellate Procedure. Specifically, Rule 73.4(4) requires a full and complete transcript of the habeas proceedings to be provided to this Court which includes Applicant's responses and objections to the court regarding the Findings of Fact & Conclusions of Law.

8. The Court's Findings of Fact & Conclusions of Law intentionally leaves out the important documents filed in this proceeding and deprives this Court of a full and complete record of the habeas proceedings to make a decision.

9. The trial Court's Findings of Fact & Conclusions of Law deprives this Court of the following filings:

- Traverse and Response to State's Original Answer;
- First Amended Memorandum in Support of Habeas Corpus;
- Objection to the Court's Refusal to Rule;
- Motion to Take Judicial Notice - Fraud Upon the Court;
- Objection to Findings of Fact & Conclusions of Law.

10. For this Court to give an adequate review the listed filings are mandatory to be a part of the record.

11. Rule 73.5 of the Texas Rules of Appellate Procedure clearly give a time frame of 180-days for the trial court to complete the habeas corpus proceedings. Nearly two (2) years have passed since the filing of the original Application for writ of Habeas Corpus before the trial Court has forwarded a partial transcript to this Court in lieu of several filings by the Applicant clearly addressing the issue.

12. The trial court has not filed for or been granted any extensions of time as required by law but has ignored all applicable law during the entire habeas proceedings.

C. CONCLUSION

13. The trial court has been subjected to Fraud Upon The court in the documents presented in the habeas proceeings as established in Applicant's Motion to Take Judicial Notice - Fraud Upon The Court. Without an extensions of time granted to the trial corut it has taken nearly two years to give this Court the habeas proceeings and then only a partial transcript in violation of the rules set forth. The record before this Court is not adequate and accurate as required by law for a full review of the proceedings.

D. PRAYER

14. Wherefore, Applicant respectfully prays that this Court:

a). Issue an Order to Abate and Stay the habeas Corpus proceedings and require the trial court to:

• File a response to the excessive delay in processing the habeas application;

• File with this Court a full and complete transcript of the habeas corpus proceedings for this Court's adequate review.

b). Issue any and all other orders that will secure the rights of Applicant to have an adequate, effective, and meaningful access to courts in this endeavor to seek relief from an unlawful incarcertion.

Respectfully submitted,

James Alan McGough
Clements unit- 1892141
9601 Spur 591
Amarillo, TX 79107-9606
December 15, 2014

CERTIFICATE OF SERVICE

This is to certify that I have served a true and exact copy of this document upon the respondent by placing the same in the U.S. Mail, postage paid on this 15th day of December, 2014,addressed to:

Eva Flores
Assistant District Attorney
Harris County, Texas
1201 Franklin, suite 600
Houston, TX 77002