PD-1383-14
COURT OF CRIMINAL APPEALS
AUSTIN, TEXAS
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IN THE COURT OF CRIMINAL APPEALS OF TEXAS

MATTHEW RYAN JERRY VANOVER PETITIONER	§	
v.	§	**No. PD-1383-14**
STATE OF TEXAS, RESPONDENT	§	

STATE'S REPLY BRIEF

FROM THE COURT OF APPEALS FOR THE
SIXTH APPELLATE JUDICIAL DISTRICT AT TEXARKANA

06-13-00256-CR

HUNT COUNTY

FILED IN
COURT OF CRIMINAL APPEALS

January 28, 2015

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IN THE COURT OF CRIMINAL APPEALS OF TEXAS

MATTHEW RYAN JERRY VANOVER	§	
PETITIONER	§	
	§	
v.	§	**No. PD-1383-14**
	§	
STATE OF TEXAS,	§	
RESPONDENT	§	

STATE'S REPLY BRIEF

TO THE COURT OF CRIMINAL APPEALS:

Comes now the State, by and through its Assistant District Attorney, and respectfully submits its reply to Petitioner's brief urging denial of review for the judgment of the Sixth Appellate District Court of Appeals in this case.

GROUNDS REVIEW SHOULD BE DENIED

GROUND ONE

As Petitioner's brief only restates the same points of error previously addressed by the intermediate courts of appeal and fails to state adequate reasons for review, the petition should be summarily denied for failure to comply with Tex. R. App. Pro., R. 66.3.

SUMMARY OF THE STATE'S ARGUMENTS

As Petitioner's brief only restates the same points of error previously addressed by the intermediate courts of appeal and fails to state adequate reasons for review, the petition should be summarily denied for failure to comply with Tex. R. App. Pro., R. 66.3.

THE STATE'S GROUND ONE

As Petitioner's brief only restates the same points of error previously addressed by the intermediate courts of appeal and fails to state adequate reasons for review, the petition should be summarily denied for failure to comply with Tex. R. App. Pro., R. 66.3.

ARGUMENT AND AUTHORITIES

While reasons for review are listed in Rule 66.3 of the Texas Rules of Appellate Procedure, the list is not exhaustive. *Gamez v. State*, 737 S.W.2d 315, 317 (Tex. Crim. App. 1987). In *DeGrate v. State*, petitioner listed twelve grounds for review without any accompanying reasons for review and each of those twelve grounds were simply a restatement of the original issues presented to the intermediate court. *Degrate v. State*, 712 S.W.2d 755, 756–757 (Tex. Crim. App. 1986). This Court refused to grant review. Furthermore, in *King v. State*, this Court refused review and in the concurring opinion, Justice Cochran explained,

> Discretionary review to this court is not simply another new appeal if a party did not like the result in the first one. We do not "redo" what the courts of appeals have already done. In all cases, there is but one direct appeal, and in all but capital cases in which the defendant is sentenced to death, that direct appeal is to the courts of appeals. There is no second bite at the direct appeal apple.

King v. State, 125 S.W.3d 517, 520 (Tex. Crim. App. 2003) (concurring, J. Cochran).

Petitioner's brief in this case essentially asks this Court to provide Petitioner with another appeal of the same issues. Petitioner's grounds for review are simply restatements of the issues raised to the court of appeals, along with a

statement claiming the court of appeals erred. The brief itself is also essentially a restatement of the same principals and application included in Petitioners brief filed with the Sixth District Court of Appeals. *See* Opening Brief of Defendant-Appellant filed in Case No. 06-13-00265-CR.

As Petitioner is simply asking this court to review, for a second time, the same issues already decided by the Sixth District Court of Appeals, this Court should deny the petition for review

PRAYER FOR RELIEF

WHEREFORE, the State of Texas prays that the deny this petition for review.

Respectfully submitted,

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CERTIFICATE OF SERVICE

A true copy of the State's brief has been sent by certified mail to Petitioner, Matthew Vanover, #1904572, Dolph Briscoe Unit TDCJ, 1459 W. Hwy 85, Dilley, TX 78017

/s/ Keli Aiken
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