65,167-18

May 8, 2015

Michael Davis #933173
Allred Unit
2101 FM 369 North
Iowa Park, TX 76367-6568

Clerk
Texas Court of Criminal Appeals
P.O. Box 12308, Capitol Station
Austin, TX 78711

Dear Clerk:

Enclosed for filing is my "Applicant's Application For Writ of Mandamus."

Please file it with the Court in the normal course of business.

Thank you.

Respectfully,

M. Davis

Michael Davis
Movant pro se

RECEIVED IN
COURT OF CRIMINAL APPEALS
MAY 11 2015
Abel Acosta, Clerk

CAUSE NOS. 331288, 331289 & 331549

MICHAEL DAVIS,	§	IN THE 228TH DISTRICT COURT
Applicant	§	
VS.	§	OF
HONORABLE MARC CARTER,	§	
Respondent	§	HARRIS COUNTY, TEXAS

APPLICANT'S APPLICATION FOR WRIT OF MANDAMUS

TO THE HONORABLE COURT:

COMES NOW Michael Davis, applicant pro se in the above styled and numbered causes and files this Application For Writ of Mandamus, pursuant to Texas Rules of Civil Procedure Rule 18(a) and Texas Rules of Appellate Procedure (50)(d), and would show this Court the following:

I. PARTIES

Applicant Michael Davis #933173 is an offender incarcerated in the Texas Department of Criminal Justice James V. Allred Unit at 2101 FM 369 North, Iowa Park, Texas 76367-6568 in Wichita County, Texas.

Respondent is a state district judge in the 228th District Court of Harris County whose address is Criminal Justice Center, 1201 Franklin St., 16th Floor, Houston, Texas 77002.

II. FACTS

Applicant has exhausted his remedies and has no other adequate remedy at law.

The act sought to be compelled is ministerial, not discretionary. Applicant has filed several motions with respondent in which applicant sought an order compelling the Harris County District Clerk to sell applicant a copy of the written plea agreement executed in this case. The clerk has refused to sell applicant a copy of this written plea bargain agreement and respondent has refused to rule on applicant's motion.

The state has materially breached and continues to materially breach this plea bargain agreement by assigning applicant to the maximum security James V. Allred Unit rather than the minimum security Diagnostic Unit (now known as the Byrd Unit), to wit:

> "In addition, [applicant] was guaranteed his sentence would be spent in the Diagnostic Unit of the Texas Department of Corrections..." (emphasis added). Janecka v. State, 823 S.W.2d 232,234 n.3 (Tex. Crim.App.1990).

Applicant is still serving this sentence; the clerk has refused to furnish or sell applicant a copy of this agreement and applicant's attorney stated that he does not have a copy. Applicant cannot establish his right to relief without a copy of this written plea bargain agreement, which was signed by the trial judge, District Attorney, several assistant district attorneys and others.

Applicant cannot appeal a non-ruling by respondent and seeks this Court's intervention in order to obtain such a ruling or other relief.

III. RELIEF REQUESTED

Applicant respectfully requests this Court to order respondent to make a ruling on applicant's motion for access to the trial record or to take other action that would permit applicant to obtain a copy of the written plea bargain agreement executed in this case. Applicant also requests a suspension of the rules.

Respectfully submitted,

Michael Davis #933173
Applicant pro se
Allred Unit-2101 FM 369 North
Iowa Park, TX 76367-6568

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of my "Applicant's Application For Writ of Mandamus" has been mailed, by first-class mail, postage prepaid, to the following on this the 8TH day of MAY, 2015:

Clerk
Texas Court of Criminal Appeals
P.O. Box 12308, Capitol Station
Austin, TX 78711

Honorable Judge
228th District Court
Criminal Justice Center
1201 Franklin St., 16th Floor
Houston, TX 77002

M. Davis

Michael Davis
Movant pro se

EXHIBIT 1

April 20, 2015

Michael Davis #933173
Allred Unit
2101 FM 369 North
Iowa Park, TX 76367-6568

Judge
223th District Court
Criminal Justice Center
1201 Franklin St., 16th Floor
Houston, TX 77002

RE: CAUSE NOS. 331288, 331289 & 331549
DAVIS V. STATE

Dear Judge:

On or about March 20, 2015 I filed my "Movant's Motion For Access To The Trial Record" with the Court. To date I have not received a copy of your decision.

Would you please hold a hearing on this motion and notify me of your decision?

Thank you.

Respectfully,

M. Davis

Michael Davis

EXHIBIT 2

March 20, 2015

Michael Davis #933173
Allred Unit
2101 FM 369 North
Iowa Park, TX 76367

CAUSE NOS. 331288, 331289 & 331549

DAVIS V. TEXAS

Judge
228th District Court
Criminal Justice Center
1201 Franklin St., 16th Floor
Houston, TX 77002

Dear Judge:

Enclosed for your decision is my "Movant's Motion For Access To The Trial Record."

Please notify me of your decision at your convenience.

Respectfully,

M. Davis

Michael Davis
Movant pro se

EXHIBIT 3

CAUSE NOS. 331288, 331289 & 331549

MICHAEL DAVIS,	§	IN THE 228TH DISTRICT COURT
Movant	§	
VS.	§	OF
THE STATE OF TEXAS	§	
Respondent	§	HARRIS COUNTY, TEXAS

MOVANT'S MOTION FOR ACCESS TO THE TRIAL RECORD

TO THE HONORABLE COURT:

Movant Michael Davis, pro se files this motion and in support would show:

Movant seeks access to the written plea bargain executed in this case.

Movant was convicted in the above cause numbers and executed a written plea bargain agreement with the State of Texas. This written plea bargain agreement provided, in part, that movant would serve his entire sentence at the TDCJ Diagnostic Unit. Janecka v. State, 823 S.W.2d 232,234 n.3 (Tex.Crim.App.1990) ("In addition, [movant] was guaranteed his sentence would be spent in the Diagnostic Unit of the Texas Department of Corrections...") (emphasis added).

The state materially breached, and continues to materially breach this agreement by assigning movant to the James V. Allred Unit instead. Movant is still serving this sentence and needs a copy of the written plea bargain agreement in order to establish his right to relief.

The clerk had refused to sell movant a copy of the agreement and movant's attorney stated that he does not have a copy.

Wherefore, movant respectfully requests this order order the clerk to sell movant a copy of the agreement or provide him one at the clerk's expense.

Respectfully submitted,

M. Davis

Michael Davis #933173
Movant pro se
Allred Unit-2101 FM 369 North
Iowa Park, TX 76367-6568

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of my "Movant's Motion For Access To The Trial Record" has been mailed by first-class U.S. Mail, postage prepaid, to the following on this the 10TH day of MARCH, 2015:

Judge
228th District Court
Criminal Justice Center
1201 Franklin St., 16th Floor
Houston, TX 77002

M. Davis

Michael Davis