FILED IN
COURT OF CRIMINAL APPEALS

October 15, 2015

ABEL ACOSTA, CLERK

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COURT OF CRIMINAL APPEALS
AUSTIN, TEXAS
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CLERK

NO. _____

IN THE
COURT OF CRIMINAL APPEALS
OF TEXAS

JOHN HALL,	§	
Appellant	§	
vs.	§	COA NO. 13-14-00044-CR TRIAL COURT NO. 36,772
THE STATE OF TEXAS,	§	
Appellee	§	

APPELLANT'S MOTION FOR EXTENSION OF TIME TO FILE PETITION FOR DISCRETIONARY REVIEW

TO THE HONORABLE COURT OF CRIMINAL APPEALS:

NOW COMES JOHN HALL, Appellant herein, and moves this Honorable Court for an extension of time to file Appellant's Petition for Discretionary Review ("PDR") in this cause pursuant to Rules 10.5(b) and 68.2(c) of the Texas Rules of Appellate Procedure and in support thereof would show the Court as follows:

I.

On September 11, 2013, Appellant was found guilty of Theft $1500-$20,000, a State Jail Felony, in the 66th District Court of Hill County, Texas. The jury sentenced Appellant to 180 days in the State Jail Division of the Texas Department of Criminal Justice, imposed a fine of $2500.00 and further recommended probation/suspension of the State Jail sentence. On October 2, 2013, the trial court judge formally sentenced Appellant to probation for five (5) years and assessed restitution in the amount

a Motion for New Trial and requested an evidentiary hearing. On November 5, 2013, the trial court judge denied the motion without an evidentiary hearing, but provided Findings of Fact and Conclusions of Law. Appellant timely gave his Notice of Appeal. The Waco Court transferred this appeal to the Thirteenth Court of Appeals on January 14, 2014.

II.

On July 16, 2015, the Corpus Christi Court issued a memorandum opinion affirming the trial court's judgment. Appellant's timely filed motion for rehearing was denied on September 2, 2015. Appellant hereby requests an extension of time to file Appellant's PDR and would show unto the Court that at least thirty (30) days will be needed to allow the completion of Appellant's PDR. No previous extension of time has been heretofore filed in this cause. This Motion is timely if filed on or before October 17, 2015.

This case appears to be one of first impression as it presents a visit to Judge Meyers' concurring opinion and novel suggestion in Cabala v. State, 6 S.W.3d 543, 553 (Tex. Crim. App. 1999)(Meyers, J., concurring). Under the "principal motivation" test, Appellant has the burden of proving by a preponderance of the evidence that the State's principal motivation in pursuing a theft conviction was to collect the debt discharged in bankruptcy. Id. This case is of utmost importance to the jurisprudence of the State of Texas and its debtor citizens. *See also* Kelly v. Robinson, 479 U.S. 36, 52 (1986).

The undersigned counsel simply requests additional time so as to guarantee Appellant effective assistance of counsel. Ex parte Dietzman, 790 S.W.2d 305 (Tex. Crim. App. 1990); Ex parte Coy, 909 S.W.2d 927 (Tex. Crim. App. 1995); Ex parte Daigle, 848 S.W.2d 691 (Tex. Crim. App. 1993).

PRAYER

WHEREFORE, PREMISES CONSIDERED, the undersigned counsel, on behalf of Appellant, respectfully prays this Honorable Court extend the time for filing Appellant's Petition for Discretionary Review in this cause until November 12, 2015.

RESPECTFULLY SUBMITTED,

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ATTORNEY FOR APPELLANT

CERTIFICATE OF SERVICE

As Attorney of Record for Appellant, I do hereby Certify that a true and correct copy of the above and foregoing document was this date provided to the Attorney for the State, Hon. Nicole Crain, via U.S. Mail.

Date:10/14/15

