84,209-03

TEXAS COURT OF CRIMINAL APPEALS

CAUSE NO. 1117975 D-A

CAUSE NO. 1118175-A

DARRYL E. FORBES JR,
RELATOR,

V.

THE DISTRICT CLERK. TARRANT COUNTY,
RESPONDENT,

RECEIVED IN
COURT OF CRIMINAL APPEALS

DEC 21 2015

Abel Acosta, Clerk

LEAVE FOR APPLICATION FOR WRIT OF MANDAMUS

TO THE HONORABLE JUDGE OF SAID COURT:

COME NOW DARRYL E. FORBES JR, RELATOR IN THE ABOVE STYLE NUMBER CAUSE AND MOVE THE COURT FOR WRIT OF MANDAMUS PURSUANT TO TEXAS CODE OF CRIMINAL PROCEDURE ARTICLE 11.07 SECTION 3 (d) [WEST 2015] AND SHOW THE COURT THE FOLLOWING:

JURISDICTION

THIS COURT HAS SUBJECT MATTER JURISDICTION PURSUANT TO ARTICLE 1, SECTION 10; ARTICLE 1, SECTION 12; ARTICLE 1, SECTION 19 BILL OF RIGHTS IN TEXAS CONSTITUTION THE FIFTH AMENDMENT, THE NINTH AMENDMENT AND FOURTEENTH AMENDMENT TO THE UNITED STATES CONSTITUTION OF AMERICA.

RELIEF SOUGHT

THE COURT OF CRIMINAL APPEALS IS UNDER A MINISTERIAL DUTY TO ORDER THE DISTRICT CLERK OF TARRANT COUNTY TO IMMEDIATELY FORWARD THE STATE APPLICATION AND RELATED RECORD PURSUANT TO TEXAS CODE OF CRIMINAL PROCEDURE ARTICLE 11,07 SECTION 3 (b).

PROCEDURE HISTORY

RELATOR WAS CONVICTED BY THE COURT IN THE FOURTH CRIMINAL DISTRICT COURT IN TARRANT COUNTY TEXAS IN CAUSE NUMBER 1117975D OF POSSESSION OF 50 POUNDS OF MARIHUANA AND CAUSE NUMBER 1118175 OF POSSESSION WITH INTENT TO DELIVER A CONTROL SUBSTANCE, ECSTASY THE COURT ASSESSED PUNISHMENT AT 18 YEARS ON EACH COUNT OF AN INDICTMENT.

STATEMENT OF THE CASE

IN SEPTEMBER 2015 RELATOR FILED A STATE APPLICATION FOR WRIT HABEAS CORPUS IN THE TRIAL COURT ON OCTOBER 30 2015 THE STATE ISSUE AN ANSWER THAT THERE ARE NO CONTROVERTED PREVIOUSLY UNRESOLVED FACTS TO THE LEGALITY OF THE RELATOR'S CONFINEMENT WHICH REQUIRE AN EVIDENTIARY HEARING AND RECOMMENDS THAT THE RELIEF REQUEST BE DENIED.

SHOW OF CAUSE

RELATOR ARGUES THE DISTRICT CLERK HAS NO AUTHORITY TO CONTINUE TO HOLD RELATOR'S APPLICATION FOR HABEAS CORPUS RELIEF

AND IS UNDER A MINISTERIAL DUTY TO IMMEDIATELY FORWARD THE APPLICATION AND RELATED RECORD TO THIS COURT OF CRIMINAL APPEALS. PURSUANT TO TEXAS CODE CRIMINAL PROCEDURE ARTICLE 11.07 SECTION 3 (d) [WEST 2015], McCREE V. HAMPTON, 824 S.W. 578, 579 [TEX. CR. APP 1992]; MARTIN V. HAMLIN, 25 S.W. 3d 718, 719 [TEX. CR. APP 2000],

RELATOR HAS NO ADEQUATE REMEDY AT LAW TO PURSUE THE REQUESTED RELIEF OTHER THAN THIS WRIT OF MANDAMUS,

WHEREFORE, RELATOR PRAYS THAT THE COURT ISSUE A WRIT OF MANDAMUS DIRECTING THE DISTRICT CLERK OF TARRANT COUNTY TO IMMEDIATELY FORWARD THE HABEAS APPLICATION TO SAID COURT OF CRIMINAL APPEALS,

RESPECTFULLY

Darryl Forbes

DARRYL E. FORBES

CERTIFICATE OF SERVICES

THE RELATOR HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE FORECOING APPLICATION FOR WRIT MANDAMUS HAS BEEN FORWARD BY UNITED STATES MAIL POSTAGE TO THE COURT OF CRIMINAL APPEALS CLERK'S OFFICE, P.O. BOX 12308, CAPITOL STATION, AUSTIN. TEXAS 78711

EXECUTED ON DECEMBER 14, 2015

RESPECTFULLY

Darryl Forbes

DARRYL E. FORBES

TEXAS COURT OF CRIMINAL APPEALS

CAUSE NO. 1117975 D

CAUSE NO. 1118175

DARRYL E. FORBES JR,

V.

THE DISTRICT CLERK, TARRANT COUNTY

MOTION FOR SUSPENSION OF RULE WITH
AFFIDAVIT IN SUPPORT

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW DARRYL FORBES JR PRO-SE AN INMATE AND FILED MOTION OF SUSPENSION OF RULES WITH SUPPORTING AFFIDAVIT PURSUANT TO RULE 2 TEXAS APPELLATE PROCEDURE [WEST 2015] AND SHOW THE FOLLOWING:

I]. SHOWING OF CAUSE:

1, RELATOR REQUEST TO FILE ONE ORIGINAL COPY OF WRIT MANDAMUS WITHOUT FILING 11 COPIES SINCE HE'S A STATE PRISONER AND THE TEXAS DEPARTMENT OF CRIMINAL JUSTICE INSTITUTIONAL DIVISION HODGE FACILITY DOES NOT PROVIDE COPIES FOR PRISONER.

WHEREFORE RELATOR PRAYS THAT THE COURT WOULD GRANT SUSPENSION OF 11 COPIES AND ALLOW RELATOR TO FILE ONE ORIGINAL WRIT OF MANDAMUS.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE SUSPENSION OF THE RULE MOTION WITH SUPPORTING AFFIDAVIT WAS SERVE UPON THE COURT CLERK P.O. BOX 12308, CAPITOL STATION, AUSTIN, TEXAS 78711

EXECUTED ON DECEMBER 14, 2015

RESPECTFULLY

Darryl E. Forbes

DARRYL E. FORBES

ORDER

ON THIS THE ___ DAY OF ___ 2015, CAME ON TO BE HEARD RELATOR'S MOTION OF SUSPENSION OF RULE WITH SUPPORTING AFFIDAVIT AND AFTER DUE CONSIDERATION OF THE SAME IT IS SO ORDER THAT THE MOTION IS GRANTED / DENIED; IT IS SO ORDER A HEARING BE SET FOR _____ 2015

_____

JUDGE PRESIDING

TEXAS COURT OF CREMINAL APPEALS

CAUSE NO. 1117975D

CAUSE NO. 1118175

DARRYL E. FORBES JR.

VS

THE DISTRICT CLERK, TARRANT COUNTY

SWORN AFFIDAVIT OF
DARRYL E. FORBES JR

MY NAME IS DARRYL E. FORBES JR, I AM OVER 18 YEARS OF AGE, I AM A RESIDENT OF CHEROKEE COUNTY, TEXAS AND I HAVE GIVEN THIS STATEMENT OF MY OWN FREE WILL AND THE FACTS STATED WITHIN THIS SWORN AFFIDAVIT ARE TRUE AND CORRECT TO BEST OF MY KNOWLEDGE

THE STATE OF TEXAS DOES NOT PAY ITS PRISONER'S FOR WORKING THEREFORE I AM INDIGENT AND DO NOT HAVE FRIENDS OR FAMILY TO SEND AND MAKE COPIES IN A REASONABLE TIME TABLE.

THE TEXAS DEPARTMENT OF CRIMINAL JUSTICE HODGE UNIT LAW LIBRARY DOES NOT PROVIDE COPIES TO PRISONER'S.

DECLARATION

I HEREBY DECLARE UNDER THE PENALITY OF PERJURY THE ABOVE FOREGOING IS TRUE AND CORRECT TO BEST OF MY KNOWLEDGE PURSUANT TO SEC. 132.000, 132.003 TEX. CIV. PRAC. REM. CODE.

EXECUTED DECEMBER 14, 2015

Darryl Forbes Jr.
AFFIANT

DARRYL E. FORBES JR.

SHAREN WILSON
Criminal District Attorney
Tarrant County

October 30, 2015

Mr. Darryl Earl Forbes, Jr.
TDCJ # 1588949
Hodge Unit
P.O. Box 999
Rusk, Texas 75785

RE: EX PARTE DARRYL EARL FORBES, JR.
C-4-010610-1117975-A, C-4-010611-1118175-A

Dear Mr. Forbes:

Enclosed please find a copy of the **State's Response to Application for Writ of Habeas Corpus** and a copy of the **State's Proposed Memorandum, Findings of Fact and Conclusions of Law** which have been filed with the Tarrant County District Clerk's Office, and an unsigned order which will be submitted to the judge for review and signature.

Sincerely,

Cindy Dutra

Cindy Dutra
Post-Conviction
Legal Secretary

Enc.