939-15

ORIGINAL

IN THE
COURT OF CRIMINAL APPEALS
NO: PD - 0939 - 15

ALBERT AYALA
PETITIONER

V.

THE STATE OF TEXAS

§ IN THE FIFTH JUDICAL
§ DISTRICT COURT OF
§ DALLAS COUNTY, TEXAS

FILED IN
COURT OF CRIMINAL APPEALS
DEC 30 2015
Abel Acosta, Clerk

RECEIVED IN
COURT OF CRIMINAL APPEALS
DEC 30 2015
Abel Acosta, Clerk

MOTION FOR REHEARING FOR
PETITION FOR DISCRETIONARY REVEIW

TO THE HONORABLE JUDGE SAID COURT:

COMES NOW ALBERT AYALA, PETITIONER PRO SE, BY THROUGH HIMSELF IN THE ABOVE TITLED AND CAPTIONED CAUSE WITH HIS MOTION FOR REHEARING TO PETITION FOR DISCRETIONARY REVEIW AND AS GROUNDS SHOW THIS HONORABLE COURT THE FOLLOWING:

I.

THIS HONORABLE COURT HAS AUTHORITY TO GRANT A MOTION FOR REHEARING PURSUANT TO THE TEXAS RULES OF APPELLATE PROCEDURES. RULE 79.1 PETITIONER CLAIMS THIS MOTION FOR REHEARING IS PRESENTED IN GOOD FAITH AND NOT FOR DELAY. TEX. R. OF APP. PRO. RULE 79.2[C] PETITION FOR DISCRETIONARY REVEIW REFUSED ON DEC OF 22nd 2015.

II.

PETITIONER RESPECTFULLY MOVES THIS COURT TO REVEIW/REHEAR THE ISSUES PRESENTED BY PETITIONER AND REBUTTED BY THE STATE. THE COURT SHOULD RECONSIDER. THERE WAS NO REQUEST IN THE TRIAL COURT THAT THE JURY BE INSTRUCTED THE WITNESS WAS AN ACCOMPLIES AS MATTER OF LAW. THEREFORE: ALBERT AYALA, WAS IN EGREGIOUS HARM BY THE CHARGE ERROR. DRUERY V. STATE. 225 S.W. 3d AT 504. (TEX. CRIM. APP. 2007).

THIS COURT SHOULD RECONSIDER THE SUFFICIENTY OF THE EVIDENCE. THE RECORD ESTABLISHES, AT BEST, ONLY A "MERE MODICUM" OF EVIDENCE OF PETITIONERS GUILTY, WHICH WILL NOT SUPPORT A CONVICTION BEYOND A REASONABLE DOUBT. SEE MCGINN V. STATE 961 S.W.2d 161, 168 (TEX. CRIM. APP. 1998).

PRAYER FOR RELIEF

WHEREFORE, PETITIONER PRAYS THIS COURT GRANTS THIS MOTION FOR REHEARING TO PETITION FOR DISCRETIONARY REVIEW IN PD-0939-15.

RESPECTFULLY SUBMITTED,

Albert Ayala

PETITIONER PRO. SE
ALBERT AYALA
T.D.C.J #1925390
BILL CLEMENTS UNIT.
9604 SPUR 591.
AMARILLO, TX. 79107-9606.

CERTIFICATE OF SERVICE

I, ALBERT AYALA, PETITIONER CERTIFY THAT TRUE AND CORRECT COPY OF THE ABOVE AND FORGOING MOTION FOR REHEARING TO PETITION FOR DISCRETIONARY REVIEW, HAS BEEN FORWARD BY U.S. MAIL, POSTAGE PRE-PAID, FIRST CLASS, TO THE DISTRICT PROSECUTOR, 133 N. RIVERFRONT BLD. DALLAS, TX. 75202.

ON THIS Dec DAY OF 22nd 2015.

Albert Ayala
PETITIONER PRO.SE
ALBERT AYALA

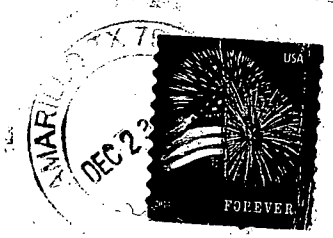
INMATE DECLARATION

I, ALBERT AYALA T.D.C.J.#1925390 BEING PRESENTLY INCARCERATED IN THE BILL CLEMENTS UNIT OF THE TEXAS DEPARTMENT OF CRIMINAL JUSTICE DIVISION IN POTTOR COUNTY, TEXAS, VERIFY AND DECLARE UNDER PENALTY OF PREJURY THAT THE FORGOING STATEMENTS ARE TRUE AND CORRECT.

EXECUTED THIS Dec DAY OF 22nd 2015.

Albert Ayala
PETITIONER PRO.SE
ALBERT AYALA

#1925390 A. AYALA, Albert
Bill Clements Unit.
9601 SPUR 591.
Amarillo, Tx. 79107-9606.



Abel Acosta, Clerk

COURT OF CRIMINAL APPEALS OF TEXAS
P.O. Box. 12308.
CAPITAL STATION.
AUSTIN, Tx. 78711.