46,194-10

ND.007-81669-97-G
WRNO. 46,194-10

RECEIVED IN
COURT OF CRIMINAL APPEALS
JUN 14 2016
Abel Acosta, Clerk

Ex parte Caldwell
Applicant-pro-se

vs.

The State of Texas
Respondent

§
§
§
§
§

In The
Court of
Criminal Appeals

Motion for Index Listing and for Records

To The Honorable Judge of said Court.

Comes now Robert F. Caldwell in the above style and cause brings forth this said motion within the comity of this Honorable Court that the applicant is asking this Honorable Judge(s) to order the 7th District Clerk of Smith County to provide the applicant with the following list and which also included of copy of records.

The applicant will show this Honorable Court that all the elements that is provided in this Motion that is presented to this Honorable Court is and thereforth relevant and to demonstrate to the court that the alleged offense that applicant was charge is void and the state had with maliously to deprive the applicant of a fair trial.

The following documents are:

1. Indictment
2. Victim Statement (sworn or unsworn)
3. Police report
4. Medical Report
5. Statement of Facts vol 1 and Vol 2 under cause no. 007-81669-97
6. Revocation Hearing under cause no. 007-81669-97 date 4-28-2000
7. Copy of photograph of any aggravated assault
8. Copy of all the names of State Agency that investigated the case.
9. Copy of all names and their statements that the state agency holds.

10. Copy of Revocation Hearing of any evidence that will provide of any Aggravated Assault.

The applicant is asking this Honorable Court of Appeals to Order the Clerk of the Court of the 7th District of Smith to supply the applicant with these said documents.

Prayer for Relief

The applicant prays that this Honorable Court of Criminal Appeals will grant this Motion to order the Clerk of the 7th District Court of Smith County to relinquish these said documents that are relevant to the Applicant case.

The applicant also prays that this Honorable Court of Criminal Appeals will grant every thing with in this Motion and any other elements that is relevant to this matter.

Unsworn Declaration

I Robert F. Caldwell being confine within this system of TDCJ-ID do hereby declare under penalty of perjury that the foregoing Motion For Index Listing and For Records to the best of my ability to the best of my knowledge

Executed On:
6-6-16

Respectfully Submitted

Robert F. Caldwell
Applicant -- Pro-se

Certification of Service

I Robert F. Caldwell declare that a true and correct copy of the above Motion For Index Listing and For Records was mail to the

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

By deposition of same in the Postal Office on the Polunsky Unit that these said Motion is hereby handed to the prison officials to be mail. These documents was mail upon 6th day June 20 16

Respectfully Submitted

Robert F. Caldwell 933046
Applicant -- Pro se

ND. 007-81669-97-G.
WRND. 46,194-ID

Robert F. Caldwell	§	In The
applicant--pro se	§	
	§	Court of
vs.	§	
The State of Texas	§	Criminal Appeals
appellee / Respondent	§	

ORDER OF THE COURT

On this the _____ day of _____ 2016 come by to be considered this pro-se Motion For Index Listing and For Records and having review the same. It is of the opinion of this court that this Motion should be _____ GRANTED --- _____ DENIED.

It is futher:

ORDER that the district clerk of the 7th District Court of Smith Tyler. Tex under the cause number 007-81669-97 and prepare of said documents that is listed in applicant Motion. that all documents is relevant and is prescribed by law of giving applicant access to court.

It is futher:

ORDER that this clerk prepare all record for this court signature and the necessary instrument of said orders

_____

Judge Presiding

and this Higher Court refuse to entertain Robert F. Caldwell appeal of his 11.07. Contrary to the holding of Montgomery v. State 810 S.W 2d 372, 380 (Tex Crim. App 1990); Hoover v. State 150 Crim 344 200 S.W 2d 1003 (1946).

QUESTION:

"How Can a state violate Tex. R. App. P. rule 52.11 (c) and Robert F. Caldwell is wrongfully set in prison when the State fail and has never submitted any evidence of aggravated assualt using a deadly weapon to wit a knife, see Art 1.15[2] see BREAUX v. State 16 S.W 3d 854, 857 (Tex. App-Houston [14th Dist] 2000).

Thereforth Robert F. Caldwell request this Court premission to filed the original of the following pleading.

1. AFFIDAVIT PURSUANT TO ARTICLE V §5 OF TEXAS CONSTITUTION TO REQUEST TO GRANT HABEAS RELIEF OF ACTUAL INNOCENCE.

WITH

Finding of Facts and conclusion of law

2. MOTION FOR LEAVE TO SEEK OUT OF TIME REVIEW

and

3. MOTION FOR INDEX Listing volumes of supplement record with volum 1 and 2 and his pleading to request this Honorable Court to ISSUE AN ORDER requiring the TYLER County District Clerk of the 114th District Court to provide the complete records under cause no CR7-81669-97 of applicant initial trial.

Wherefore Robert F. Caldwell.. request this Honorable Court of Criminal Appeals to grant his request to file one copy of his pleading in this Honorable Court

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N2. C.C.P Art 1.15 in part 'that it shall be necessary for the state to introduce evidence into the record showing the guilt of the defendant and said evidence shall be accepted by the court as the basis for it judgment and in no event shall a person charge be convicted upon his plea without sufficient evidence to support the same. id.

Respectfully Submitted
Robert F. Caldwell
Robert F. Caldwell #933096
Applicant - Pro-se
Polunsky Unit
3872 FM 350 S
Livingston, Tx 77351

Unsworn Declaration

I Robert F. Caldwell being confine within the system of TDCJ-ID do hereby declare under the penalty of perjury the foregoing Motion For Leave to file one Copy of the pleading is true and correct.

Executed On:
6-6-16

Duly Submitted
Robert F. Caldwell
Robert F. Caldwell

Certificatum of Service

I Robert F. Caldwell declare that a true and correct copy of the above and foregoing Motion For Leave to file ONE COPY OF THE PLEADING WAS SERVED upon the Honorable Judge Kerry L. Russell and Ass. Dst. Att Michael J. West

100 N. Broadway
Tyler, Texas
75701

100 N. Broadway
Tyler, Texas
75701

EXECUTED ON
6-6-16

Duly Submitted
Robert F. Caldwell

Certificate of Interest of Parties

I Robert F. Caldwell Files his Motion For Leave to File one copy of the pleading and duel serve all parties of interest as follow:

Honorable Judge Kerry L. Russell
100 N. Broadway
Tyler, Texas
75701

Ass. Dist. Atty: Michael J. West
100 N. Broadway
Tyler, Tx 75701

Executed On:
6 - 6 - 16

NO. 007-81669-97-G
WR NO. 46,194-10

Ex parte Caldwell
Applicant-Appellant

vs

The State of Texas
Appellee-Respondent

In The Court
of
Criminal Appeals

ORDER OF THE COURT

On the _____ day of _____ 20____ came to be considered a pro-se Motion For Leave To File One Copy Of The Pleading and this Court having review same is of the opinion that said Motion shall be _____ GRANTED or _____ DENIED.

ORDER of the clerk to prepare for the court of criminal appeals judge(s) signature (s) of the necessary instrument to hear the applicant appeal of his 11.07 of cause no 007-81669-97-G.

_____
Cheif Judge Presiding