COURT OF APPEALS FOR THE
FIRST DISTRICT OF TEXAS AT HOUSTON

ORDER

Appellate case name: Ex Parte Matthew Ware

Appellate case number: 01-16-01015-CR

Trial court case number: N/A (Unfiled case)

Trial court: County Court of Chambers County

On January 3, 2017, this Court's Order, among other things, ordered the county clerk to assign a cause number and file the clerk's record, with the trial court's certification of appellant's right of appeal of the denial of the pre-trial petition for a writ of habeas corpus, signed on December 20, 2016, filed by appellant, Matthew Ware, within 10 days of the date of that Order. That Order further ordered the State to file its appellee's brief, if any, within 20 days of the date of that Order.

On January 9, 2017, the State filed its "Initial Response to Defense Writ of Habeas Corpus" in this Court contending, among other things, that the habeas petition should be denied because appellant had been booked for a Class B misdemeanor due to a clerical error when he actually had four prior convictions for theft, is on a two-year deferred adjudication for state jail felony theft from Harris County, and his file has been transferred to the District Attorney's Office for indictment. In the alternative, the State requests that this Court stay its January 3, 2017 Order to allow the District Attorney's Office to present the case to the grand jury, currently scheduled for January 12, 2017.

Accordingly, because it appears that the State is planning to present this case to a grand jury for indictment on January 12, 2017, which may render this appeal moot, the Court **STAYS** this Court's January 3, 2017 Order for **ten days from the date of this Order**. *See* TEX. R. APP. P. 52.10(b). This stay is effective until the appeal is decided or this Court lifts the stay, and any party may move for reconsideration. *See id.* 52.10(c).

It is so ORDERED.

Judge's signature: /s/ Laura C. Higley

☑ Acting individually ☐ Acting for the Court

Date: January 9, 2017