WR-86,973-03
COURT OF CRIMINAL APPEALS
AUSTIN, TEXAS
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DEANA WILLIAMSON
CLERK

Court of Criminal Appeals Cause No. WR-86,973-03

RECEIVED
COURT OF CRIMINAL APPEALS
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IN THE
COURT OF CRIMINAL APPEALS
OF TEXAS

EX PARTE
ADAM REPOSA,
APPLICANT

On a Judgement of Criminal Contempt
in cause number C-1-CR-17-100018
in the County Court at Law No. 5
of Travis County, Texas

APPLICANT'S RESPONSE TO STATE'S FIRST AMENDED RESPONSE OPPOSING EMERGENCY MOTION FOR STAY AND/OR MOTION FOR BOND PENDING THE FILING OF WRIT OF HABEAS CORPUS

Submitted by:
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TO THE HONORABLE JUDGES OF THE COURT OF CRIMINAL APPEALS:

COMES NOW, Adam Reposa, Applicant, by and through Carissa L. Beene, his attorney of record, and files this Applicant's Emergency Motion for Stay and/or Motion for Bond Pending the Filing of Writ of Habeas Corpus, and would respectfully show the Court the following:

I.

1. State contends this court has no jurisdiction to grant bond pending the filing of a Writ of Habeas Corpus. The motion filed by Applicant is the same mechanism used and granted by this court in Cause no. AP-69,745-01.
2. Applicant is currently being detained in solitary confinement at the Travis County jail. Applicant was placed in deplorable conditions without running water. On October 9, 2017, Attorneys for Applicant were forced to speak to Applicant through a closed door. Applicant has been segregated since being booked in on October 6, 2017.
3. Applicant, Adam Reposa, an Attorney, was never given a bond during the course of the contempt proceedings pursuant to TEX. GOV'T CODE sec. 21.002(d).
4. Applicant maintains that the procedure for this contempt proceeding, from its inception with the filing of a charging instrument entitled "Allegations of Contempt" by Hon. Nancy Hohengarten through the unified trial on the merits where Applicant's right to a jury were denied, do not comport with Due Process.
5. On September 20, 2017, Hon. Paul Davis filed an Order committing Applicant to six months incarceration at the Travis County jail on each of the five allegations. The sentence was to be served day-for-day. Applicant was not sentenced in open court in compliance with TEX. CRIM. PRO. Art. 41.12 nor able to exercise his right to give reasons to prevent sentence and object to sentence. *See* TEX. CRIM. PRO. Art. 42.07.

6. October 2, 2017, hearing on Motion to Release on Personal Recognizance Bond or Alternatively Reasonable Appeal Bond in front of Hon. Paul Davis. Applicant appeared through counsel. Procedures for obtaining bond in Travis County are commonly achieved ex parte without the defendant present; only in rare circumstances is a formal hearing held with all parties present. Applicant requested a ruling based on submitted filings. Hon. Paul Davis denied all bond reasoning that he did not have the authority to grant bond.
7. October 2, 2017, Applicant filed a Motion for Leave to file Writ of Habeas Corpus in the 368th District Court of Williamson County. Hon. Rick Kennon granted the motion and signed a personal recognizance bond. The bond has not been honored.
8. October 3, 2017, Motion for Rehearing on Pre-Trial Application for Writ of Habeas Corpus. Applicant appeared through counsel. Applicant's presence was not required.
9. October 4, 2017, Hon. Tamera Needles, Presiding Judge of the 427th District Court called Attorney for Applicant and Travis County District Attorneys Keith Henneke and Don Clemmer in to her court to discuss the issue of bond. This was not a set hearing nor was Applicant's presence requested. Hon. Tamera Needles informed all parties that she would sign a bond if/when Applicant was in custody.
10. October 7, 2017, an attorney approached Hon. Tamera Needles to sign a bond for Applicant, who was then in custody. Hon. Tamera Needles granted a bond, the state having been previously heard. The bond has not been honored.

The Hon. Rick Kennon of the 368th District Court of Williamson County and Hon. Tamera Needles of the 427th District Court of Travis County have considered all of the facts and decided to grant Applicant bond. The grant of bond is binding and is not being followed by the Travis County Sheriff's Office. Consequently, Applicant is currently being detained unlawfully

and in solitary confinement.

Therefore, in order to maintain the status quo ante and to ensure that Applicant's request for relief is not rendered moot, Applicant respectfully requests that this Court, as it sees fit, either stay the execution of the judgment of contempt, set a bond for Mr. Reposa, or both pending the outcome of the writ proceedings. In the event that this Court sets a bond, Applicant also requests that this Court grant him release on personal bond, as an officer of the court, with promise to appear at all court proceedings. In the event that Applicant is not successful in ultimately obtaining relief, there will be time enough to serve his sentence at a later date.

WHEREFORE, PREMISES CONSIDERED, Applicant respectfully moves this court to stay the judgment of contempt in the court below and/or set a bond, and to grant personal bond pending future habeas proceedings.

Respectfully submitted,

C. Beene

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CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing Applicant's Response to State's First Amended Response Opposing Emergency Motion for Stay and/or Motion for Bond pending the filing of Writ of Habeas Corpus was served upon the attorney for the State on October 10, 2017.

C. Beene

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Carissa Beene