

IN THE 242<sup>ND</sup> DISTRICT COURT OF SWISHER COUNTY, TEXAS

and

IN THE COURT OF CRIMINAL APPEALS, AUSTIN, TEXAS

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JASON JEROME WILLIAMS,	)	
	)	
Applicant,	)	Nos. 51,824 – 01, -02, -03, -04
	)	
v.	)	(Trial Court Cause Nos.
	)	B-3340-9907-CR, B-3341-9907-CR
	)	B-3342-9907-CR, B-3356-9908-CR)
STATE OF TEXAS,	)	
	)	
Respondent.	)	
_____	)	

**MOTION FOR EXPEDITED DISCOVERY AND EVIDENTIARY HEARING**

JASON JEROME WILLIAMS, an indigent prisoner now incarcerated in the Roach Unit of the Texas Department of Corrections in Childress, Texas, by and through counsel, respectfully moves this Court to hold an evidentiary hearing and not a paper hearing to “develop . . . additional facts” as required by an order dated September 25, 2002, from the Court of Criminal Appeals of Texas. *See* Court Order (Sept. 25, 2002) at 1. In light of this Order – as well as Article 11.07 of the Texas Criminal Code of Procedure, Article 1, §§ 10 and 19 of the Texas Constitution, and Amendments V, VI and XIV of the United States Constitution – applicant Jason Jerome Williams respectfully requests that the Court allow him to conduct discovery on an expedited basis and to hold an evidentiary hearing following the completion of discovery.

1. Mr. Williams filed an Application for Writ of Habeas Corpus with the Swisher County Court on January 7, 2002. He then filed a Motion for Discovery on January 29, 2002, and a Motion for Evidentiary Hearing on February 1, 2002. His Application was transferred to the Court of Criminal Appeals on February 22, 2002. The District Court took no action on Mr. Williams' discovery or evidentiary hearing motions.

2. On October 6, 2002, Mr. Williams's counsel received notice that this Court remanded, on September 25, 2002, three of Mr. Williams's cases, Writ No. 51,824-01 (Trial Court Cause No. B-3341-99-07-CR), Writ No. 51,824-03 (Trial Court Cause No. B-3356-99-08-CR), Writ No. 51,824-04 (Trial Court Cause No. B-3342-99-07-CR) for an evidentiary hearing in the convicting court because this Court "believe[s] that Applicant has alleged facts which, if true, might entitle him to relief" and that "additional facts need to be developed." *See* Court Order (Sept. 25, 2002) at 1. The Court of Criminal Appeals of Texas expressly directed this Court to "develop . . . additional facts" and enter findings of fact and conclusions of law within 90 days.

A. Mr. Williams Needs, and is Entitled to, Discovery

3. Mr. Williams needs, and is entitled to, discovery to be able to meaningfully litigate the claims set forth in his habeas application and to provide this Court with a complete record on the issues that must be addressed on remand. The Order specifically states that this Court should (1) "make findings of fact as to whether Officer Coleman's testimony concerning these offenses was corroborated by any other evidence"; (2) "the nature of any such evidence"; (3) "what alleged impeachment information concerning Coleman was known to the State at the time of trial"; and (4) "whether any of this alleged impeachment material was revealed to defense counsel before trial in these

causes.” *See* Court Order (Sept. 25, 2002) at 2-3. The Order further states that this Court should also “make any further findings of fact and conclusions of law which it deems relevant and appropriate to the disposition of Applicant’s application for habeas corpus relief.” *Id.* at 3.

4. Article 11.07(3)(d) of the Texas Code of Criminal Procedure permits the Court to order affidavits, depositions, interrogatories, and to conduct formal hearings. The Court of Criminal Appeal’s Order itself states that this Court should allow, among other things, “depositions” and “interrogatories,” and conduct a “hearing” under that provision because “additional facts need to be developed” here. *See* Court Order (Sept. 25, 2002) at 3.

5. In view of the 90-day timetable set forth in the Order for conducting discovery, holding a hearing and making findings of fact and conclusions of law, Mr. Williams must be permitted to commence discovery immediately. The discovery that Mr. Williams needs to conduct, and the facts and law supporting such discovery, are fully set forth in Mr. Williams’s previously-filed motion for discovery which Mr. Williams incorporates herein by reference. *See* Motion for Discovery dated January 29, 2002.

B. Mr. Williams Requires an Evidentiary Hearing Because a Paper Hearing is Not Appropriate in His Case

6. On October 10, 2002, the Amarillo Globe-News reported that Judge Self of this Court stated, in part, that “[t]he trial court can resolve the facts by ordering affidavits, sending written questions or conducting a hearing. I’m going with the affidavits first to see if we can get these questions answered.” Greg Cunningham, *Tulia Cases Returned to Trial Courts*, Amarillo Globe-News, Oct. 10, 2002, at 5C.

7. The facts and law supporting Mr. Williams's request for an evidentiary hearing are fully set forth in Mr. Williams's previously-filed motion for an evidentiary hearing which Mr. Williams incorporates herein by reference. *See* Motion for Evidentiary Hearing dated February 1, 2002. A paper hearing in this case would be inappropriate. Without a full and fair evidentiary hearing, where previously undisclosed evidence and critical witness testimony will be presented in support of Mr. Williams's claims, the Court will lack the necessary facts to render a just and accurate finding, as ordered to do so by the Court of Criminal Appeals, on Mr. Williams's Application.

WHEREFORE, Mr. Williams respectfully requests that this Court allow him to conduct discovery on an expedited basis and to hold an evidentiary hearing following the completion of discovery.

Respectfully submitted,  
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