MO15CV-069

NO. CR 29320-A

EX PARTE	§	IN THE DISTRICT COURT
	§	385TH JUDICIAL DISTRICT
JARED MORRISON	§	MIDLAND COUNTY, TEXAS

MOTION TO DISQUALIFY AFFIDAVIT OF DAVID G. ROGERS

[LIVE EVIDENTIARY HEARING REQUESTED TO RESOLVE INCONSISTENCIES]

Comes now applicant Jared Morrison (**"Morrison"**), and presents this motion to disqualify the Affidavit of David G. Rogers (Morrison's former, 2011, attorney) which was filed in the Clerk's Record on January 30, 2015. Morrison objects to this affidavit and asks that this affidavit be disqualified because of the numerous amount of false statements made by David Rogers (**"Rogers"**), which Morrison will show the court are not true. Morrison asks the court to find in his favor the facts and conclusions of law relating to these ineffective assistance of counsel (**"IAC"**) claims, or to order a live evidentiary hearing so these unresolved inconsistencies can be resolved in front of this fine court. Morrison shows the following:

1) On February 11, 2015 Morrison received the affidavit of David Rogers which contradicts Morrison's IAC claims. Upon reading the affidavit, Morrison noticed that the majority of the statements in the affidavit were not true. Morrison will show these false statements to be untrue by them being inconsistent with the record, by contradictions in his affidavit, by a letter Morrison sent to Rogers at that time (Exhibit "E" of his 11.07), letters sent to Jason Morrison (Morrison's brother) from Morrison at that time, and by requesting to subpoena the recorded jail conference from April 26, 2011 that was done via the Midland County Jail's teleconference visitation screens, which will show Rogers did not tell Morrison the things he claims he said in his affidavit. (See accompanying letters Exhibits "N"- "R")
2) Morrison also recognizes that some of the statements are true and he will show these statements support Rogers' ineffective assistance, which prejudiced Morrison. Morrison will ask the court some hypothetical questions in this motion. He does not do this in expectation of the court to give him an answer, he asks them so this court can test the illogical consequenses of Rogers' claims.
3) On the first page of Rogers' affidavit under the "1st client meeting" heading, Rogers stated that he conveyed to Morrison the plea offer of seven years, and Morrison rejected the offer. He said they discussed the motion to adjudicate and the fact Morrison was currently serving a federal prison sentence for failure to register as a sex offender. This statement is true and Morrison does not rebut this statement. This statement supports Morrison's IAC claims, because both Mprrison and Rogers knew

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Morrison pled guilty to a new federal charge, and was sentenced to the charge. They also both knew that because Morrison was sentenced to that charge, and because he was guilty of that federal charge, by law, was enough evidence to find Morrison's allegations of a probation violation to be true. Both Morrison and Rogers, at that point, knew Morrison would be found guilty at the revocation hearing and would be subject to 20 years in prison.

a) Is it normal operating procedure for attornies to let their clients go into a trial, knowing they are guilty and subjecting them to a sentence almost three times more severe than the plea offer?

1) No, Morrison does not think so. Ian Cantacuzine, Tom Morgan, nor did Mark Dettmam allow this to happen. Morrison feels that he needs to fix a possible misunderstanding by the court. After reviewing the designation of issues to be resolved, and the court's order for affidavit by Ian Cantacuzine and Tom Morgan, it seems to Morrison that the court is understanding in his IAC claims, in the instant 11.07 that Cantacuzine and Morgan coerced him into pleading guilty to the offense, and the court questions them if they informed Morrison about the strict liability aspect of 22.011. Morrison wants it to be clear that that is not the issue in the instant 11.07 Postconviction Writ of Habeas Corpus, and Morrison has never denied that Cantacuzine and Morgan informed him that his knowledge about the victim's age would not matter because "ignorance of law is no defense". Granted, Morrison does feel Cantacuzine and Morgan did pressure him and Jason into pleading guilty to the offense in 2004, he now realizes their purpose for doing so. That purpose being, how the Court of Appeals has interpreted 22.011 as being strict liability. At the time when Morrison wrote the letter to Judge Darr requesting relief, to until well after Morrison was in T.D.C.J., where he started doing deeper research on 22.011 and mens rea issues, he had not read any case law that held that 22.011 was strict liability. The only case law he read at the time in 2011 was Johnson v. State 967S.W.2d 848 (Tex. Crim 1998), which was an indecency with a child case. The indecency charge was affirmed, but Johnson's 22.021 charge was acquitted because of the intentionally or knowingly culpable mental state ("CMS") which supported Morrison's issue. Morrison also went off of the literal plain language of the statutes of 22.011, 6.02, 8.02, and 2.01, and thought since 8.02 (mistake of fact defense) and 8.03 (ignorance of law as no defense) were according to statute distinguishable, and 22.011 had a CMS requirement that Cantacuzine and Morgan lied to them for some reason and coerced their plea. Morrison's only issue with Cantacuzine, presently, is that he failed to properly investigate and research his case and failed to recognize that the strict liability interpretation was predicated off of old law and is unconstitutional as shown in Morrison's

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ground 2-7 in his 11.07, and he failed to raise these issues. Morrison does not question the wisdom of the court by its questions to Cantacuzine and Morgan, he only hopes these issues do not cloud the waters.

b) What would be the reasons a person of ordinary intelligence would reject a seven year plea for a lower sentence, and then go into a probation revocation hearing, knowing they would be found guilty and sentenced to a more severe sentence of possibly 20 years.

1) Because they honestly thought they would come out with a better result that the seven year plea.

2) They love prison and thought a seven year plea was too short and they wanted more time.

Morrison assures the court his answer is the first one and he surely does not love prison.

4) Rogers claims that he told Morrison, that the judge had not read the letter and would not read it, because it was an ex parte communication.

Rogers never told Morrison that Judge Darr would not read his letter. If Rogers would have told Morrison that, Morrison would have asked him what an ex parte communication was and how to properly file it so it would be read by Judge Darr, so he could obtain the relief he sought, then there would be a record of a subsequent filing of the issues properly filed.

The only thing Rogers told Morrison about his improper filings were that he should have filed the letter as a Writ of Habeas Corpus instead of a P.D.R. Morrison was under the impression that his only err was that he titled the pleading wrong and that Rogers would check on it and make sure it was filed properly. He thought this because he asked Rogers if he would make sure it was filed right, and Rogers told him that he was not assigned to do any writs, but he had to go to the courthouse anyway and he "would check on somethings".

a) If a prisoner had a legal issue dealing with their freedom, and they found out from their attorney their legal issue was not going to be seen by the judge because it was impropely filed, would it not make sense that that person find out how to properly file the issues so they would be properly addressed by the court so they could secure their freedom?

b) What reasons would a person have for not filing their issues properly?

1) They thought their attorney would make sure it was filed properly.

2) They did not know their pleading was filed wrong and it would not be seen.

3) They love prison and wanted to reject a seven year plea so they could get a longer sentence.

Morrison assures the court his answer is the first one, and besides of his err in titleing his letter wrong he did not know it was improperly filed, or would be futile.

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c) Morrison's lack of knowledge regarding this issue can be proved in several exhibits in the 11.07 (Exhibit "F" and Exhibit "I") Exhibit "I" is a letter Morrison wrote to Jason at that time telling Jason that he needs to write Judge Darr a letter as a Writ of Habeas Corpus, indicating he thought the title should be a Writ of Habeas Corpus, but still be filed in the form of a letter. Exhibit "F" is an ex parte letter from Jason to Judge Darr requesting to file a Writ of habeas Corpus.

1) if Rogers had told Morrison what an ex parte communication was, and that it would not be read by the judge, why would Morrison then write his brother and give him bad advice, and not tell him how to properly file a Writ of Habeas Corpus. (Also see Exhibits "O", "P",and "R" which accompany this motion.)

Morrison assures the court that if Rogers would have counseled him properly about this issue, he would have wrote to Jason how to properly file the pleadings, and informed him what an ex parte communication was. And he would have filed it properly himself.

5) Rogers stated Morrison was convinced he received IAC at his initial plea hearing because he was not advised of any mistake of fact defense, and because he did not know the girl's age, he could not be guilty of the offense. This is true, but Morrison was also convinced the CMS in 22.011 must modify "of a child",because "of a child" is a mental element, and the statute does not dispense with any mental element pursuant to 6.02(b). Rogers said he informed Morrison that mistake of fact was not a defense, and knowledge or lack of knowledge about her age was not a defense. This statement is partly true and partly false.

Morrison was convinced that because the minor in his case represented herself as an adult, and he did not intentionally or knowingly have sex with a child, he could not be guilty of 22.011, because of how the plain language of the statute reads in conjunction with 6.02, 2.01, and 8.02 of the penal code. Morrison thought he would get relief from the court because the law was clear, and no where in the Penal Code or any other statute was there any indication that 22.011 was strict liability or 6.02, 2.01, or 8.02 did not apply to 22.011. Morrison's understanding of the law protected him in four ways:

1) Using the rules of grammer and syntax, the intentionally or knowingly requirement in 22.011 modified everything following the CMS, including "of a child".
2) Therefore, it was a requirement under 6.02,
3) and 2.01 that every element must be proved beyond a reasonable doubt, and since the statute did not dispense with any mental element under 6.02(b) the CMS must apply to "of a child".
4) Morrison also interpreted the affirmative defense of Mistake of fact as applying to whether the actor through mistake formed a reasonable belief about the facts that constituted the offense in 22.011. That fact being: the only element that makes the

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statute criminal, that it was the sexual organ of a child that he penetrated. Morrison was under the impression that the prescribed CMS in 22.011; also 2.01, and 6.02 were not defenses as much as they made his intent or knowledge that he had sexual intercourse with a child elements of the offense which must be proved beyond a reasonable doubt. And mistake of fact was an affirmative defense that he would have to prove by the preponderance of the evidence.

After discussing his rationale with Rogers, the only thing Rogers said to Morrison was that he did not think 8.02, the mistake of fact defense, could be used in cases involving children. He told Morrison that he remembered reading that somewhere, and said "we might not be able to use it as a defense." As indefinate as that answer seemed to Morrison, and even if Rogers' memory served him correctly, Morrison still had the intentionally or knowingly CMS requirement, 6.02, and 2.01 as relief. Rogers never told Morrison nor showed him case law that said knowledge of the victim's age in 22.011 cases was not an element of the crime, or that the prosecutor did not have to prove his knowledge of her being a child, or that 6.02 did not apply to 22.011.

Rogers did tell Morrison that he would send him case law that would help him in his rationale about the intentionally or knowingly CMS having to be proved. Whether Rogers was talking about that topic in general, how it is true with all other crimes, or specifically to 22.011, Morrison does not know because ne never recieved the case law. All Morrison knew was his rationale about the plain language of the statute was sound, and even if he could not have used the mistake of fact defense, the state still had to prove his CMS as pertaining to if he intentionally or knowingly had sex with a child. This rationale of Morrison's at that time can be proved by the accompanying letters that Morrison wrote to Jason at that time, and also Exhibit "E" in tne 11.07. (See Exhibits "N"- "R").

6) Rogers claims that at their first meeting, which was on March 24, 2011, he told Morrison that he would find case law to prove Morrison's position was incorrect. Also on the first through second page, under the "investigation and preperation" heading, Rogers stated that on March 23, 2011 he researched the issues that related to the victim's age, and he downloaded several cases that held that the state was not required to show or prove that the defendant knew the victim's age: Johnson v. State 967 S.W.2d 848 (Tex Crim 1998), or "ignorance or mistake of law was not a defense": Vasquez v. State 622 S.W.2d 864(Tex, Crim 1981). Rogers also stated he down loaded two other cases Mateo v. State 935 S.W.2d 512 (1996), and Artiga v. State (1999 Tex. App. Lexis 2878), two Court of Appeal cases that cited Vasquez.

a) If Rogers researched these cases the day before the 3/24/11 meeting, why did he then not show Morrison these cases at the meeting, and he said "he would" find some case

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law to prove Morrison was incorrect?

1) "He would" indicates future tense not past tense. This discrepancy in Rogers' affidavit shows that either Rogers did not tell Morrison "He would" find some case case law to prove his position was incorrect, Because he said in his affidavit he had already researched and knew about this case law, or Rogers did not actually do the research on those cases, and he was not sure of tnat holding. Morrison knows it is both. Rogers said he downloaded Johnson supra on 3/23/11, that cannot be true because Morrison discussed Johnson with Rogers at their first meeting on 3/24/11, and Morrison used the fact that Johnson was acquitted of his 22.021 charge by reasoning of the prescribed CMS in 22.021, which is identical to the prescribed CMS in 22.011. Johnson was convicted of his indecency with a child charge because it did not contain a CMS in the pertinent part of the statute in 21.11. 22.011 does not compare to 21.11 because in Johnson the Court of Criminal Appeals held that since one section of 21.11 did have a CMS, and the pertinent part omitted a CMS, the omission indicated a legislative intent to dispense with a CMS in that section of 21.11. The same CMS is in both sections of 22.011(a)(1) and (a)(2), therefore, is distinguishable. Johnson is the case that MOorrison used to support his rationale. (See Johnson 967 S.W.2d at 858 (Baird's dissent)), and also (Statement of Facts p.5 attached to 11.07). Since Johnson's case was a P.D.R., that is what spurred Morrison totitle the letter he sent Judge Darr a P.D.R. Rogers did not ever tell Morrison that Johnson was not supportive to his rationale.

7) Rogers stated that he told Morrison, the Judge was not considering the letter as any type of request for post conviction relief. He said he told Morrison that his request was improper and he needed to file a proper writ as set forth in the Texas Code of Criminal Procedure. Rogers never told Morrison this.

a) Prior to this meeting on 3/24/11, did Rogers contact Judge Darr about Morrison's letter, and did Judge Darr tell Rogers she would not consider the letter as any post-conviction relief?

b) Why did Rogers construe Morrison's letter as a "post conviction" request for relief when Morrison was not yet convicted? Morrison made it clear several times that he did not want post conviction relief at that time, he wanted a new trial before he was convicted.

c) Morrison asserts that if a conversation between Judge Darr and Rogers would have happened regarding Morrison's letter as being construed as it being any type of post conviction relief, Judge Darr would have looked at the state of the file like she did at the motion to revoke hearing (See RR 3 pp. 8-9) and determined that like she did at the hearing that Morrison could not do a post conviction writ while on deferred adjudication, without a conviction, and she would have informed Rogers about that

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fact prior to the Motion to Revoke hearing and Rogers would not have repeatedly ~~used~~ used the term "post conviction writ" at the hearing or in his Motion for Continuance, because he would have then known Morrison could not file a post conviction writ while on deferred, and he would have then described the term properly as a pre-conviction writ.

d) If Rogers would have told Morrison that the judge was not considering his letter as request for relief, and that his requests were improper, and that he needed to file the proper writ as set forth in the T.C.C.P., why then did Morrison not then file the request for relief properly? Or specifically ask Rogers how to do it in his letter to Rogers (Exhibit "E" of 11.07) that he wrote on 3/28/11? That letter shows Morrison thought Rogers would make sure it was filed properly. In the letter Morrison asked Rogers: "Regarding the letter I wrote Judge Darr requesting a petition for discretionary review, I have now learned from you that I should have filed a Writ of Habeas Corpus. My first Question is; Is it filed already? And if not we need to file it as soon as possible. I think it would be in my best interest if it was filed before the Motion to Revoke hearing comes and I am actually convicted on the charge I want to file the writ for." (Exhibit "E" P. 1 of 10).

e) If Rogers would have told Morrison the judge was not going to consider his letter a post conviction writ, Morrison would have asked him how to properly file his issues so they would be reviewed by the court, and Morrison would have followed up on filing them correctly so they would be properly in front of the court securing him the possibility of having an evidentiary hearing or new jury trail before he was brought to the court to face his revocation hearing and subject to 20 years in prison. Morrison proclaims that he surely would not have rejected the seven year offer and went into a probation revocation hearing, knowing the allegations would be found true, and ne would be subjected to 20 years prison, while knowing the judge would not consider his request for relief, as Rogers now suggests. The fact Morrison never filed the pleadings properly is evidence that Rogersnever properly counseled Morrison about these things and shows Morrison thought Rogers would make sure it was filed properly.

f) After Rogers told Morrison that he should have filed his letter as a writ of habeas corpus, Morrison did go to the law library and do a search for writ of habeas corpus. He found it under Article 11.07 in the T.C.C.P. After reading that section he determined that the only thing that applied to him was under section 2, therefore, since he was not yet convicted he wanted to file his pleadings under 11.07 section 2, which is shown in the letter Morrison wrote to Rogers (Exhibit "E") and on the record (RR 3 p.6). Morrison's letter to Rogers and accompanying letters to Jason show Morrison was under the impression that Rogers was going to file his issues properly. Because Morrison showed Rogers 11.07 section 2 the morning of the revocation hearing,

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and again told him that is how he wanted to proceed, shows Morrison's rationale did not change from the time he found out he should have filed the letter as a writ of habeas corpus under 11.07 section 2 to the day of the hearing. Rogers never told Morrison his pleadings were improperly filed and would not be considered by the judge. Morrison assures the court that if he would have, he would have made sure the filings were proper.

8) Rogers acknowledged that he received the 10 page letter (Exhibit "E") that Morrison sent him. Rogers mentions that Morrison acknowledged that he advised him of the improper filings by stating in the letter that he should have filed a habeas corpus. That is explained above. Rogers also said that Morrison acknowledged that Rogers had found some case law, but Morrison incorrectly represented that such case law would be helpful to his arguments, and at no time did he ever tell Morrison the case law would be helpful in overturning his conviction.

At their meeting after discussing Morrison's rationale, granted, Rogers never specifically said the case law would be helpful in overturning his conviction (There was no conviction at that time), but Rogers did tell Morrison he would send Morrison some case law to help with his argument regarding the intentionally or knowingly CMS having to be proved.

In the letter that Morrison was responding to from Rogers, when he wrote Exhibit "E", Rogers mentioned in that letter that he found some case law that would be helpful to Morrison. Morrison's exact words responding to that letter are:

> "You told me you found some more cases that can help. I appreciate you very much for your time in that research and look forward to receiving what you have." (See Exhibit "E" p. 5 of 10) Also;
>
> "I look forward to receiving what case law and other information you have found or know that will help build a strong defense that will fix this injustice." (See Exhibit "E" p. 7 of 10).

This is not the response someone would give if they were told about case law that was in opposition of their argument, as Rogers states in his affidavit.

a) Why would Morrison at that time on 3/28/11 write that letter like that if Rogers told him about case law that was contrary to his argument, like Rogers claims now? Morrison's letters to Jason at that time also support that Morrison was expecting Rogers to send him case law that would help him. (See Exhibit "O" p. 1 of 4).

9) Rogers attemps to use this letter to discredit Morrison's Ground Nine (Rogers not requesting Character witnesses or requesting seperate punishment hearing), by acknowledging in Morrison's letter (Exhibit "E" p. 6 of 10) tnat Rogers requested a list of witnesses, but Morrison represented in his letter that he did not know if

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anyone would be helpful or not. This statement, however true, is twisted out of its context. The statement regarding Morrison's remarks to the list of witnesses requested was:

> "In your letter you said you need a list of key witnesses. I'll try to find out the addresses of the people who can help in the **original case** if we need them. I'm not sure who can help or not. I guess that is a question we can talk about at a visit." (See Exhibit "E" p. 6-7 of 10)

Morrison's statement, like Rogers suggests had nothing to do with character witnesses for the Motion to Revoke punishment phase of the hearing. Rogers states later in his affidavit that he knew Morrison would be unsuccessful on his writ and the state could prove the allegations in the motion, therefore, he would be found guilty of the charge. Rogers then claims he told Morrison witnesses might be helpful, but would not serve as an adequate substitute for Morrison accepting full responsibility. Rogers never told Morrison anything about character witnesses, but if he was so confident in Morrison not getting any relief like he says now, he should have told Morrison to contact character witnesses to testify on his behalf, so to mitigate his punishment, especially since he says now that they might have been helpful.

The above statement in Morrison's letter to Rogers shows Morrison's mindset, that at that time he was focussed only on getting a new trial for the **original case**. Also the letter Rogers wrote Morrison regarding the list of "key" witnesses, shows Rogerswas asking about "key" witnesses that could help at the guilt phase, not punishment phase.

10) Rogers states that: "Several days prior to the trial, I had another jail conference with Mr. Morrison." That statement and everything following it is false. That jail conference was on April 26, 2011 two days prior to the trial, not several days. It was done through the Midland County Jail's video conference visitation screen, and was recorded by the jail, and should still be on their records. Morrison requests that this video conference be subpoenaed to show Rogers' claims in saying the things he told Morrison in his affidavit are not true. These false claims are:

1) He reviewed the research he had done with Morrison and informed him that Morrison's belief about "this" case law supporting his position was incorrect. And Mistake of fact was not a defense, and the state did not have to prove Morrison knew the victim's age.
2) He informed Morrison that he discussed the original plea with Ian Cantacuzine, and Cantacuzine disagreed with the allegations included in the letter.
3) He explained that he believed Morrison would not be successful, even if he had filed a proper writ.
4) He said he told Morrison that Morrison had not filed a proper writ, and once again he was not appointed to represent him on any writs

5) The court was not considering the letter.
6) Any motions for continuance would be denied.
7) Based on his investigation he did not see any IAC and his legal arguments would fail.
8) He advised Morrison to wait to file any writs until after the hearing on the motion to adjudicate.
9) That it would be best for Morrison to admit to his conduct while on deferred, accept resposibility, and plea for mercy, and his current actions were contrary to any acceptance of resposibility.
10) The state could prove the allegations in the motion and if Morrison wanted a lower sentence he should accept responsibility, explain his actions, and request leniency.
11) That witnesses might be helpful, but would not serve as an adequate substitute for accepting full responsibility.

Rogers then stated that Morrison disagreed with all of his legal analysis and recommendations and instructed him to file a continuance, and that Morrison believed that he would be acquitted based on the allegations in the letter. He said he again made it clear to Morrison that his allegations were incorrect and he was going to trial on April 28, 2011.

None of that happened the way Rogers said it in his affidavit. To Morrison's recollection and records, that meeting was very short, 10 minutes at the most. Rogers informed Morrison that the trial would be on 4/28/11. He told Morrison about the amended allegations where the state had alleged two more allegations: The SORNA violation, and that he failed to report to probation in May of 2010. Morrison told him that he never got the discovery he requested, and he asked Rogers to postpone the hearing so he could fight the habeas corpus first since it was filed. Morrison informed him that he had learned there was a Writ of Habeas Corpus filed with the jail records. Rogers told him that proberly had something to do with his federal custody. He told Morrison that he would draft a motion for continuance and present it to the judge. (See Statement of Facts filed with 11.07).

The things Rogers claims that he told Morrison are untrue and Morrison requests a live evidentiary hearing so he can have the opportunity to confront Rogers so to be able to resolve the inaccuracies of his statements.

Morrison proclaims that if he was told, and shown by Rogers case law that showed that his rationale was misplaced, repeatedly told the judge would not see the relief pleadings, and was not going to consider it as any post conviction relief, that the writ was improperly filed and he would not be successful even if it was properly filed, any Motion for continuance would be denied, based off of Rogers' research, Morrisons' legal arguments would fail, and that the state could prove the allegations in the motion to revoke probation, he like most other people in that situation would realize

that their attempt for relief, at that point, was futile, and he would have taken the seven year plea and not chanced a 20 year sentence.

a) What sense would it make for someone to go into a probation revocation hearing, knowing they are guilty of doing the probation violations and risking a 20 year sentence, when they knew from their attornies advice, they had absolutely no chance to prevail?

If Rogers would have informed Morrison of the things like he conveniently asserts now to rebut his ineffectiveness, Morrison would have either known to file his writ issues properly so Judge Darr would have ruled on them and possibly given him relief, or a lower sentence, or Morrison would have accepted the seven year plea offer, then addressed the issues in a post conviction writ like he does now, except he would have seven years prison instead of 16 years.

11) Rogers also said that throughout there conversation Morrison continually maintained he was wrongfully convicted. This is nottrue because Morrison knew he was not yet convicted, and he was trying to get a new trial to prevent a conviction.

12) Under the heading "Post Trial", Rogers stated that he told Morrison that any Motions for Continuance he filed would be denied. He also stated he did not raise the denial of the Motion for Continuance on appeal because he did not believe it was a legally valid issue on appeal because Morrison did not have a proper writ before the court. He also said under "Ground 11", that he could not show harm, and even if the writ was properly before the court, Morrison's legal basis was incorrect.

a) If Rogers thought this, then why did he raise it as a ground in the Motion for new trial and motion for arrest in judgment as the court erred in overruling Morrison's Motion for Continuance, and the denial caused harm to Morrison?

Morrison asserts that since Rogers did file and allege that the court erred in overruling Morrison's continance, then he must have thought it did have merit, and should not have been denied, and it being denied did cause harm to Morrison. Or is Rogers a filer of frivolous motions?

b) Why was Morrison's writ not properly before the court?

c) How are the frivolous issues that Rogers did raise on appeal:

1) That the sentence was cruel and unusual punishment in violation of both the U.S. and Texas Constitutions.

2) The trial court abused its discretion in ordering consecutive sentences.

any less frivolous than the trial court abusing its discretion in overruling Motion for Continuance to allow him to exercise his right to writ of habeas corpus, when it is well known and clearly stated in law by our legislature that it is not cruel and unusual punishment as long as the sentence is between the guidelines described by the legislature, and a 17½ year sentence (16 years for state and 1½ for feds)

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is between a 2nd degree felony's sentencing guidelines of 2 to 20 years? It is also clearly written into law that the trial court has the discretion to order sentences to run either consecutively oe concurrently, but no where is it written into law, by our legislature, that 22.011 is strict liability, or 6.02, 2.01, or 8.02 do not apply to 22.011. Morrison asserts that the two grounds raised by Rogers above are more frivolous than the ground Morrison complains about that Rogers should have raised on appeal, as proved in Ground Eight in Morrison's 11.07, which barred Morrison from exercising his right to Writ of Habeas Corpus in the trial court.

d) If Rogers did the research, reviewed the file, and transcript from an appellate standpoint and determined the denial of Morrison's Motion for Continuance was frivolous, and should not have been filed, then wouldn't he have come to the same conclusion about even more frivolous grounds as stated above, and not raised them?

13) Under "Ground 9" on the fourth page Rogers said we had a discussion about the stategy for the hearing and at no point did I provide him with the names of any potential witnesses or ask him to contact anyone regarding the case.

The only discussion about strategy was at the holding cell right before the hearing. Rogers said if the Judge denies the Motion for Continuance then we will just object to everything and appeal it. The only discussion for strategy was the Motion for Continuance. Morrison does not remember Rogers ever discussing any strategy regarding the probation violation allegations with him.

a) If Rogers knew the state could prove these allegations, then what strategy could there be?

There was never a strategy that was discussed with Morrison, except that Rogers would send him case law about CMS issues, he would try to get a continuance, and He would check on some things at the court house.Rogers did not ask Morrison if he has any character witnesses that he would like to testify on his behalf if the Motion for Continuance was denied.

14) Under "Ground 10" Rogers states that he told Morrison in their consultation, after he wanted to address the court, that what Morrison wanted to say would not be helpful in lessening his sentence, and then Morrison followed his advice and did not request to speak to the court again.

a) According to Rogers, up until this point Morrison has rejected all of his advice:

1) That his legal arguments about his knowledge about the victim not being a child is not an element of the offense in 22.011 cases.

2) The prosecutor did not have to prove he knew the victim was a child.

3) Mistake of fact (8.02) is not a defense to 22.011.

4) He showed Morrison case law that was contrary to Morrison's rationale.

5) He would not be successful on a writ that was based on the allegations in the letter.

6) The letter had not been properly filed as a writ.
7) The court was not considering or was even going to read his letter.
8) That a post conviction writ, filed after the revocation hearing was his only vehicle for attacking the sentence.
9) The court would not grant his continuance.
10) Rogers discussed Morrison's situation with Cantacuzine, and he also disagreed with the allegations.
11) That Morrison was not going to be represented by counsel on any writs.
12) It would be best to admit to his conduct while on deferred probation, accept full resposibility, and plea for mercy.
13) The state could prove the allegations in the motion to revoke, and if Morrison wanted a lower sentence then he should plead true to the allegations, explain his actions, and request leniency.
14) The Motion to Revoke hearing will be the last and final hearing.

a) If Morrison was actually told this advice, and he still bullheadedly went into the revocation hearing hoping by some chance he would be granted a continuance or given a hearing on his issues, which he knew he had no chance of getting because of this advice, and also knowing he would be sentenced to more than the seven year plea bargain because he knew the allegations of the probation violations were true, then at the trial he was given no relief and sentenced to 16 years in prison, why would Morrison then all of the sudden take Rogers' advice and give up when he had nothing to lose, and not assert his right to Writ of Habeas Corpus issues to the trial court, and explain his reasonings for rejecting the offer? Rogers' claims in saying all of this is ludicrous. Morrison remembers asking.

Morrison remembers asking during the consultation if Rogers could explain that he did not reject the seven year plea offer to plead not true to the probation violation allegations, he rejected it because of his letter and the plain language of the statute said he was not guilty of the offense, and he should get a new trial. Morrison then said that he wanted the issues addresses to the court. Rogers told Morrison that he was not going to address the issues and that Morrison could not address them either because the sentence was already made, but he would appeal it. They then concluded the hearing therefore, Morrison did not address the issues he wanted to address, including asking the court for a seperate punishment hearing.

Morrison did not know going into the revocation hearing that it was going to be the final hearing. Contrary to what Rogers claims, Morrison thought he would be granted a Motion for Continuance or an evidentiary hearing based on his habeas corpus issues.

15) Rogers said he surmised that what Morrison was going to say would be unhelpful to his case at that time. Earlier in his affidavitRogers said he told Morrison if he wanted a lower sentence, he should acceprt resposibility for his actions, explain his actions, and request leniency.

a) If Rogers said that then, why did he stop Morrison from explaining his reasons for not accepting the plea offer of seven years, and then requesting leniency?

Morrison proclaims that he never denied resposibility for his actions, neither in the original offense, nor the probation violations. Morrison rejected the seven year plea offer only because he wanted to show the court, that by the plain language of 22.011, 6.02, and 2.01 he was not guilty of the underlying offense based off of the letter of the law, and that he should have had a new trial or atleast an evidentiary hearing. Unfortunately for Morrison he was punished more severely for interpreting the statues of the Penal Code literally, not being properly counseled about the law, and wanting to raise these issues before the court. This is a prime example why our constitutions do not allow for ambiguous and vague statutes of criminal law.

PRAYER

All things considered, Morrison prays that this Honorable Court take his arguments into consideration and disqualifies the Affidavit of David Rogers and finds in his favor when considering the facts and conclusions of law relating to his ineffective assistance of counsel claims which Morrison has shown are apparent. Morrison also prays that this fine court orders a live evidentiary hearing so he can be afforded the opportunity to confront David Rogers about any inconsistencies that are left unresolved. Morrison prays the court orders a bench warrant to subpoena him for any live hearings so he can be present for them.

INMATE'S UNSWORN DECLARATION

I Jared Morrison, #1747148, being presently incarcerated at the Huntsville Unit, Walker County, Texas of the Texas Department of Criminal Justice, declare under penalty of perjury the aforementioned statements are true and correct.

Executed on Februrary 19, 2015

2/19/15

Jared Morrison #1747148
Huntsville Unit
815 12th Street
Huntsville, TX 77348

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EXHIBIT "N" - EXHIBIT "R"

Jason and Jared Morrison were incarcerated separately and allowed to correspond with each other, therefore, they regularly corresponded with each other through the U.S. Mail dicussing their lives, thoughts, pains, ideas, successes, and other events while they were locked up in jail. They would also discuss their legal research, rationale, defenses, and plans together. Morrison wishes to use sections out of some of these letters to show the court his mindset back in 2011 when he rejected the seven year plea offer and went into the revocation of probation hearing and was sentenced to sixteen years prison.

In Morrison's Post-conviction Writ of Habeas Corpus/11.07 that was filed on December 30, 2014 Morrison claims that his counsel (David Rogers) was ineffective and he was prejudiced by the ineffective assistance of counsel because Rogers failed to properly counsel him about the relevant laws that affected his decision to reject the seven year plea offer. Rogers sent the court an affidavit which rebuts Morrisons claims. Morrison wishes to include in the record these letters as exhibits "N" - "R" which support his ineffective assistance of counsel claims by showing that his rationale was not changed, because Rogers did not tell him the things Rogers claims he told MOrrison in his affidavit. These letters will also show Morrison thought Rogers was going to make sure Morrison's habeas corpus request for relief was filed properly.

Some of these letters contain some vulgarities, Morrison would like to apologize to the court for that, and means them as no disrespect. They just happen to be on the same page as the relevant sections that he wishes to show this court. Morrison hopes the court does not hold them against him while discerning his intentions in the parts of the letters that he feels he must show the court to rebut Rogers' affidavit, and to help show he was denied effective assistance of counsel in 2011.

Morrison received these letters on Februrary 23, 2015, after requesting them to be copied and sent to him by his mother Jana Morrison.

EXHIBIT "N"

Exhibit "N" is a letter from Jason Morrison to Jared Morrson written on March 10, 2011. This letter shows the Morrsons' rationale about why Morrison rejected the seven year plea offer after reading Johnson v. State 967 S.W.2d 848 (Tex. Crim 1998), and both of their intentions to appeal (or seek out relief) for their 2004 22.011 case, because of Morrison's rationale that he raised in 2011, and now in the instant 11.07.

17

Hey Bro, 3/10/11

I got your letter today 3/10. I hope everything went well with your hearing with Judge Darr today. Please let me know what happened. This letter will go out tommorrow. I'm glad you didn't take the 7 years. If you did take it would that mean you would do 3½ and have 3½ on parole? I'm also glad you sent Judge Darr that letter. It was a very good letter... good job! I feel good having a chance to fight everything especially after reading your letter to her. Maybe you should be an attorney. I'm also glad that info I sent you helped. If Judge Darr allows an appeal then you can bet I will spend a lot of time in the law library looking for more cases for us. I have another request to go and I will get the federal statute where it says not knowing age is a defense. I also sent mom a letter telling her to research that defense by Colin Campbell "Mistake or Lack of Info as to Victims Age as Defense to Statutory Rape". I highlighted that in the papers I sent you. Hopefully mom will find something about it. I sent her that letter the same day I sent you your last letter. Last Tuesday I think. I haven't heard from mom in almost 2 weeks. Have you heard from her? Her phone has been restricted and she hasn't responded to any of the 3 letters I've sent her over the last 2 weeks. I'm worried about her. Please let me know if you have heard from her.

EXHIBIT "N"
1 OF 2

I am scheduled to be sentenced on 4/7/11 at 2:45pm, which my attorney said may change depending on Marc's trial. His trial was scheduled for 2/7/11, but got postponed because his attorney found a reason not to represent him. So he has to get a new attorney I don't know what my sentencing date has to do with Marc, or why they won't sentence me until after his trial. I hope they hurry and sentence me. I thought I was suppose to have the opportunity to go over my P.S.I. thirty days before sentencing. Today is 3/10/11 I get sentenced 4/7/11. Thats less than 30 days. My attorney sucks! I want to have time to go over it so I can have time to research objections if they try to screw me on how they figure the loss which determines offense level which determines length of sentence. Sorry to get side-tracked on my stuff, I just hope they sentence me soon so we can fight the state stuff together.

With what your saying about Johnson vs. State being good for us, I think we should consider hunkering down and fighting this. Its obvious our civil rights have clearly been violated, and we were the victim of an injustice system that forced us into pleading guilty like 95% of people do. I guess I missed it where it said Johnson was acquitted for the sexual assault charge. That sheds a new light on things. I'm glad you caught that. I'm also

EXHIBIT "N"
2 OF 8

19

EXHIBIT "O"

Exhibit "O" is a letter from Morrison to Jason written on the early morning of March, 25, 2011 responding to a letter from Jason as well as informing him of his and Rogers' March 24, 2011 meeting. This letter shows the following:

1) Even though Morrison was told that mistake of fact as a defense could not be used, Rogers did tell Morrison that Morrison not fullfilling the culpable mental state of intentionally or knowingly might work, and he was told by Rogers that Rogers had several case laws that he would send to Morrison about the culpable mental state having to be proved, and mistake of fact not being a defense.
2) Morrison thought that Rogers was going to file a Writ of Habeas Corpus for him, and that Rogers was willing to help him with the case in that regard. (See the underlined section at the bottom of page 1 of 4)
3) The underlined sections on page 2 of 4 also show that Rogers told Morrison, and Morrison was under the impression thatRogers was going to help him, and check on obtaining the things Morrison needed to get the relief he requested.
4) On page 3 of 4 it shows that after the meeting with Rogers on 3/24/11, Morrison thought his rationale was solid as he instructed Jason to write Judge Darr a similar letter as his, but "instead of saying Motion for Discretionary Review tell her you want to file a Writ of Habeas Corpus."
   a) This shows that Rogers did not tell Morrison, Judge Darr would not consider his letter as any request for relief, or that it was an ex parte communication and would not be reviewed by Judge Darr. It also show that Morrison did not know his rationale was an incorrect legal rule at that time, and that he was not told by Rogers that his request was improper and he needed to file a proper writ as set forth in the Texas Code of Criminal Procedure. Morrison's wording in the letter also shows that he thought his only err pertaining to filing the letter incorrectly was that he titled the letter wrong, and he was not properly counseled otherwise.
5) On page 3 and 4 the letter shows more of Morrison's intentions and stategies of challenging his and Jason's case because of the way he interpreted the statutes, through letters to the judge as writ of habeas corpuses which again shows he thought his rationale was solid and must not have been told by Rogers the things Rogers claims to have told him.
6) On page 4 of 4 Morrison mentions that Jason should hurry up and file his paper work as a writ of habeas corpus, then write Judge Junell asking to postpone his federal sentnece hearing until after the state writ of habeas corpus hearing, so he could fight the state case first and get a good attorney too, which would help both of them since Morrison has a good attorney.
   a) That proves that Morrison, at that time, was under the impression that Rogers was

EXHIBIT "O"

going to help him with his habeas corpus issues.

b) This letter proves that Morrison thought that his rationale about the culpable mental state having to be proved regarding the status of her minority was solid, he did not know his pleadings would be futile, and that Rogers would send him case law that supported his rationale.

c) Morrison proclaims that he would not have written the things stated in this letter to Jason if he was told by Rogers the things that Rogers claims he told Morrison in his affidavit rebutting Morrison's Ineffective assistance of counsel claims.

21

3/29/11

Q

OF THAT They would Figure out The Best way to keep our country and people strong to be The best people and country in The world But Every one I've talked to is starting to Hate The Government and if things don't change I bet within 5 years There will be a civil war here like you see all over The world right now like in Egypt, Libia, and a lot of other countries Rebelling Against their Governments.

Since I wrote you last time Guess what Happened. Well last Friday They woke me up and said I had to Go to court I didn't know what it was about because Tom never came and told me about it. Well when I walked into The court room it was just Tom, The DA. and The Judge. Then Judge Dark walked in after I got There. Tom told me The court sent him a copy of That letter I sent to Judge Dark and he Agreed That it was Lawful and Appropriate That he withdrawed as my counsel and told The Judge That He was my Brothers counsel in 2008 and That I was saying They misrepresented us. He told The court That I wanted to file a writ of Habeas Corpus and That I needed new counsel. I Agreed and Judge Dark Gave me a new Attorney. This new Lawyer came and saw me today and looked over my case and asked me if my Brother was The one That got charged with real estate Fraud charges I told him yes. He said ok cool I'm just making sure I got The Right Guys. He then asked me what I wanted to do. So I told him. He said we could use Mistake of fact as a Defense and I told him ok and said can we use The fact That We didn't Fit The Elements of The law about Being Incarcerated and Knowingly. He told me That might work and he said he had several case laws That he would send me on Best and Mistake of fact. He was also real interested in how and Asked where you were and How you were. I told him you were Good and in Odessa. He is Going File a writ of Habeas Corpus But said I may still have to face The probation revocation. He sounded very knowledgable and willing to help me with This case. His name is David Rogers

EXHIBIT "O"
1 of 4

108.5

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(3)

I Heard From some other people I went to court with that He was Real Good. He is the same attorney that I told you about in another letter A while back that is Representing that dude ERIK's wife that I was locked up with in ECCC and I told you how He did for Her the same type shit You got sued for and he might be representing the person who sued you. I hope I'm wrong in that assumption and I probably am because it would suck if he represented me with any type of Attention motive because he represented someone who sued you. Did you ever find out [who sued you] HAVE YOU HEARD of David Rogers? If so Tell me what you think. So far I'm happy with Him He is very SMART and is willing to let me call the shots. I gave him a abridge version of what happened in Jun of 2005 and what we got convicted by KAY and he wanted to know how I AM AND JOHN MISrepresented us. I told him I was tired of getting screwed by my Defense Attorneys. He told me that they Added two more counts to my Racketing one was that I pled Guilty for Failure to Register in federal court and the other was NOT showing up for probation 4 times in McCloud. Plus they now say I owe probation 1250 dollars OCSO instead of $727. The No Ass prosecutor is just trying to make it look so much worse. I told David Rogers about the Bitchass charge I was forced into pleading for in Washington and he didn't Even know about that and said the prosecutor doesn't know about it Either and told me He hopes they don't find out. I asked him why they didn't know about it and he said I Guess they are lazy. It's gonna piss me off real Bad if all of the Sudden they throw that info and include that as one of my convictions. Do not Repeat that over the phone or in a Return letter about that charge being not known. My new Attorney also said he would Research a bunch of more case laws about the Knowingly part of that statute. He said he would also try to get all the discovery that the prosecutor has on the original charge and said that in interview we had with KAY Might be Gone and also he might not have the court Recordings of our pretrial on May 6 2004. I asked those Both to help our case. He said he would check on them.

Exhibit "O"
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(7)

need

17 1/2 Years Than 1 Million Dollars. Plus I'd Forgive Everyone involved In The Railroading of our lives over the past 7 years. I Kind of hope my Fed Time has stopped so just in case we don't win This and The whole process Does take a year or two Then I just stay here and my state time is ticking away and I don't have to do TDCJ. You need to figure out a way to do the whole time feds. I hear TDCJ is not Bad But Feds is alot, lot Better. TDC is not Airconditioned and The food has started to suck real Bad. I hope we Don't Get shipped and Get out of it all, I Think if you write Judge Junell A letter and tell him That you found new evidence in your state case That can prove your innocents and have putting a writ of habeas corpus Then he can't sentence you on The FTR or The 1 point you got from Being on probation, so hurry up and write Judge Darr's court a motion to File a writ of habeas corpus on The Basis of ineffective counsel and new evidence. Tell Junell your co-defendant Jared Morrison and yourself have Filed it with 385th District Judicial court, write Judge Darr a similar letter like The one I wrote her That I sent you a copy of. But instead of saying Motion of Discretionary Review tell her you want to file a writ of habeas corpus. Don't copy my letter word for word put it in your own words and views. I've found lots of other Good stuff in The law library about Rules and stuff That can help us out plus my new ~~Bad~~ Good ass attorney said he was going to send me a lot of stuff too. I just had a Thought. If you wrote to Judge Darr and filed The Writ of H. C. First and said you want to start Those proceedings and withdrawl your Guilty plea. Then wrote Junell's court and told him of The new stuff we learned and tell him you feel it would Be in your Best interest if you took care of The state case writ of H.C. First cause you found Evidence That would acquitt you on The state charge. He would have to Then let you come here Fight That Then Go Get sentenced without The FTR, and The extra 1 point for criminal history from The sexual assault sentence of probation after we Beat it. Plus we could fight The state stuff together. Then Go Back to The feds together to probably Be done and you would at least have a lot

Rite Judge Junnel for habeas ... into case ... write ...

Shows Rogers DID not tell me that expunction ... of letters would not be considered. And That he was going to send me Good stuff

shows rogers did not tell me intentionally or knowingly ... not showing ... I thought I had a chance at ...

EXHIBIT "O"
[illegible] 3 of 4

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8

less of a sentence to worry about. And by that time Marc would've either won or lost his trial and you could figure out what to do on the Re/Estate stuff based on what happened to him. If he got an acquittal you would definitely withdraw your plea & go to trial compare his case with yours like a case law type defense and win in Jury Trial. Or the worst case scenario you go to trial and lose and then you don't have to worry about the state stuff effecting your sentence now you would get less time than 5 years. Yeah that's what I think you need to do fight this writ of Habeas corpus with me first then go do the FED trial. Plus if you burned up and got to state and got a good attorney too then that would help both of us since we have a good one. That would make it where you would only have a max of 5 years S.R. too that is a win win situation. Even if we lost the appeal I don't see that making it worse than it is now anyways. I wrote a letter to Junior the day after I got sentenced Fed's I'll also send you a copy of it in this letter so you know what I told him. Tell me what you think of doing the state writ of H.C. first. Actually if you did that first then the state couldn't even use the Rev/Revoke stuff on the ITR cases (in the revocation) and if you lost the state stuff it would just add 1 point to your criminal history which would not change anything because I got that from point A/Credit when I was sentenced in 2005 for that motion to reduce. For that I got Resentenced and I was still a category III. It makes more sense to do that so file the paper work with Judge Davis about a writ of Habeas corpus and motion to start the Judicial process in CR2033A. Then write Junior and tell him what you did and that you need to postpone your sentence until you take care of the writ or H.C. Don't even talk to him stupid lawyer about it just do it. Then you will get a state lawyer who you can talk to about it. Your fed attorney will say want you to get the fed stuff resolved first so he's done with it. Get your ass over here in 8 weeks or so. I think that would be best.

EXHIBIT "O"

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EXHIBIT "P"

Exhibit "P" is part of a letter from Morrison to Jason written on April 16, 2011. The letter shows the following:

1) This letter shows that Morrison, at that time still thought his writ of habeas corpus was going to be honored, and that all he needed to do was get the Motion to revoke Probation hearing postponed until he received his discovery, and his habeas corpus hearing was satisfied.

2) That Morrison, at that time, twelve days before the 4/28/11 revocation hearing, was under the impression that his writ of habeas corpus would be properly filed after Rogers received the 3/28/11 letter (exhibit "E"), on the 6th or 7th of April, or it was filed when he Wrote Judge Darr the letter as a Petition for Discretionary Review then found out later it was the wrong thing to file.

a) This shows that Morrison thought his letter would be filed properly, and that Rogers did not tell him that his filings were not filed properly or would not be seen or considered by Judge Darr.

b) It is clear in this letter that Morrison at that time, thought that the court would honor his request for relief.

3) It also shows Morrison's faith in his logic and that he would prevail on the state charge the way he was attempting it and that he did not think he would lose the writ of habeas corpus retrial.

a) If Rogers would have told Morrison that Judge Darr would not consider his letter, that his rationale about the intentionally or knowingly culpable mental state having to be proved was an incorrect rationale, and that his request was improper, and needed to be filed properly under the T.C.C.P., Morrison would not have written about thinking he was going to prevail on the state case. And he would not have got his brother Jason to do the same thing he was doing if he was told these things.

b) This is not the kind of letter someone would write who was told the things that Rogers claims he told to Morrison.

4) On page 3 of 4 Morrison tells Jason to "Keep in mind that anything you write to Judge Darr will be seen by the prosecutor. I guess the judge does not even read it. Judge Darr told me she didn't read the letter I wrote her, which to me is mail fraud since the prosecutor read it and the person I acknowledged it to did not."

a) This comment shows that Rogers never told Morrison that Judge Darr would not read the letter and was considering it as an ex parte communication and would not review it. If Rogers would have told that to Morrison, Morrison would have told Jason the correct way to file his request for relief, and surely he would not have accused the prosecutor for committing mail fraud.

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4-16-11
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(5)

I Feel I Should have The Right To Satisfy The Habeas Corpus That I Filed Before I Worry About The Revocation, Plus I Asked For All My Discovery and haven't Recieved Any of IT. I'll Send a letter To The Court To Postpone IT Closer to The Date of 4-20 or When I Get There Tell My Attorney That IT needs To Be Postponed For A Couple Months So I can get My Discovery and Satisfy The Habeas Corpus. I wrote A long letter To My Attorney and sent IT OUT ON April 4th Telling him To Make Sure The Writ of H.C. Is Filed and A lot of other Things I found That would help us And Some More Stuff. He wrote The letter on 4-7-11 Telling Me My Court Date was on The 20th So I Don't Know If he Filed The Writ After he Got My letter on The 6th or 7th or If IT Got Filed when I wrote The Judge That letter To file a Petition For Discretionary Review which I Now found out was The Wrong Thing To file. I Rewrote That letter I wrote To My Attorney And sent MOM A Copy I Told her To Make A Copy and send IT To You, She said she would Because she had some other Stuff To send You. When You get IT Tell Me what You Think. I'm still waiting on hearing From him. He is In The Law Firm of Raymond Fivecoats. I Talked To a Dude That was In Tank 7 which is Across The Hall From here, I went To The law library with him he said That David Rogers sued him one Time and he said he would Be a Good Attorney To have even Though he Didn't like him. I hope and pray That he helps us and wants To Make This Right And You Get A Bad Ass Attorney Too. That's Fucked up O.D.C. quit subscribing To lexis nexis And has out dated Books. How Many Times have You Been Allowed To Go To The law library There? If Its Not Very Much I Think That will Give You A legal Right To An Appeal. You Might Add That in The letter That You write To Junnel [redacted]. I still Can't Believe he Gave Me 16 Years of S.R. I Don't Know why You Are feeling Down. I'm Feeling Good About This State Stuff And have faith Through Jesus And in his Name That This Mountain will Be Moved out of our Way, You have To Keep Your head up And have faith. I Know The Fed stuff Doesn't look Real Good Right Now But once we Beat This State Stuff on This Writ of H.C. or we Get A Retrial And get Acquitted Then Together here with This Good law library we can work on Beating Your Bullshit Fraud charges And I.D. That's

Need

shows I was expecting copies to file writ right.
shows I thought H C was filed

have gone law library 6 or 7 ...bly 6x ...mes in 9 months here ...e been ... wrote a ... letter to marshals ... of that and ... beg ... ... kept ... about ... ... for ... ... get ... ...

EXHIBIT "P"
1 of 4

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27 4-16-11

(6)

Here is what I think you should do now- write Judge Junell [redacted] tell him to hurry up with your fed sentence so you can go ahead and be sent to state custody because you filed a writ of H.C. with the state court because of ineffective counsel and you feel it would be in your best interest if you could handle that ASAP so if he would be so kind to schedule your sentencing date ASAP so you could go fight the state stuff. whatever happens I'm going keep postponing my Revocation until my writ is honored I have a new des. to fight and I know it is strait from God. Since I've been in odessa I've prayed for knowledge and wisdom and while I was there I just concentrated on the FTR and never looked at the state laws until I came to Midland and as soon as I started looking at the state laws one thing fell into place after another from your second case law and that sealed the deal Now all we have to do is take a polygraph and prove we did not knowingly or intentionally cause the penetration of a child's sexual organ. According to the 5th Amendment the prosecutor has to prove without a reasonable doubt that the Defendant did engage in all elements of the commission of the act and if all elements of the definition of the crime are not fulfilled then the Defendant is acquitted. Also if we could get Tyler to quit lying and tell the truth and say we never were told her age and she represented herself as an adult that would help you. There is so much ammunition I have to help turn over the sexual assault case. when that is done you will lose 2 point on the criminal history actually 3 points because you would lose the 2 point for being put on probation and 2 points for committing another crime while on probation so you would only have 2 points which I think on a category 2 which would knock off 6 months of your fed time plus the FTR would be gone and that would knock off another 18 months so there is 24 months knocked off which would put you around 51-24=27 months if you got 57 months or if you got 6 months then you only have 32 months left and if you took the drug program that would knock off another 12 months which would be 23 months left and you're already done a year so by the time we get done with this state habeas corpus you'd have less than a year left to do for the Realestate Bull shit. That does not

Exhibit "P"
2 of 4

4-16-11

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(7)

include The Good Time you would Be Given, I'm sure you can figure out The Exact Amount of Time you would have left if we Beat the state stuff. Are you Gonna Take The Drug addict program which will take off a year? Also with The state shit out of the way The Max s.R. you will get will Be 5 years and if you Do 2.5 you'll Be off. How many months did you say you were looking at Right now for Everything was it 51 or 61, I can't Remember if it was Right over 4 years or 5. Also Keep in mind That anything That you write to The Judge will Be seen By The prosecutor. I Guess The Judge Doesnot Even Read it. Judge Barr told me she Didn't Read That letter I wrote her, which to me is mail fraud since The prosecutor Read it And The person I Acknowledged it to Did not. Some more Hypocrasy for you. So Don't Be Down on yourself for pussin out and pleading to The Realestate stuff. Go Ahead And Do what you have to Do and Get sentenced Quickly As possible so we can fight This state case. Personally I'd much Rather Be sentenced with Realestate fraud charges Than a sex crime so put All your faith And Energy into The fight against The state charges And Keep your head up and Don't Doubt or feel Bad or Down. Thank God and praise him for The New Evidence we found to Beat The worst case. Then After That is whooped The other will Be easier to fight too. I'm not sure what God is telling you to do. All I can tell you is what I have heard him tell me, which is to use This Jail Time to Know him, pray, learn, and Better myself to Glorify his name. Also to fight This sex charge All wisdom I have recieved is Because of him Along with The faith I have to Beat This. Jesus said If you have faith The size of a mustard seed you can move mountains Just By speaking to Them. I Don't Think he is literally talking about mountains But huge problems That Are in your way. So I Know That I have more faith Than a little mustard seed That This problem will Be moved out of our midst. Joseph Got Accused of Raping potiphors wife and had to Go to prison. while he was in prison he still had God's favor and God put him in The situation to Become Greater Than he was Before his prison sentence and he Became The Ruler of Israel Directly Because of That. I Think we have not Been punished But Blessed in The fact That we are incarcerated. yeah

[Left margin notes:] tell him find about 190K loss not 1Mil / Thanks for your encouraging words

[Right margin notes:] Need / shows Roger [illegible] tell me anything that Judge [illegible] not considering my [illegible] / And [illegible] / If Airies would have told me Barr was not going to consider my letter I would have said [illegible]

Exhibit "P"
3 of 4

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(8)

IT SUCKS SOMETIMES, BUT IF WE WERE NEVER INCARCERATED WE WOULD OR NEVER FOUND OUT ABOUT THIS NEW EVIDENCE, BEING THIS CLOSE TO GOD OR HAD THE WILL AND THOUGHT OF WRITING THESE BOOKS THAT I KNOW WILL HELP MILLIONS OF PEOPLE AND GIVE US LOTS OF BLESSINGS. EVERYTHING HAPPENS FOR A REASON AND GOD WANTS TO BETTER HIS PEOPLE NOT HARM THEM. I KNOW WE SIN A LOT AND GOD DOES PUNISH HIS PEOPLE FOR SINNING WHICH HE HAS, AND HE FORGIVES AND FORGETS TOO. THERE HAVE BEEN LOTS OF GREAT MEN OF GOD WHO HAVE BEEN PUNISHED IN THE BIBLE AND RECENTLY. THIS IS ALL PART OF HIS PLAN TO THE BETTERMENT OF HIS GLORY. PRAISE GOD FOR EVERYTHING EVEN IF IT IS NOT WHAT YOU WANT. GOD WILL BLESS YOU IF YOU LIVE RIGHT AND DO AS HE ASKS. YOU KNOW ALL THIS STUFF. QUIT BEING STUPID AND BEATING YOURSELF UP ABOUT PLEA'N OUT ON THE FED CHARGES. IF YOU GET SENTENCED ON 5/26 OR 5/27 THEN YOU WONT BE HERE TILL 10-13 DAYS AFTER THAT WHICH WILL BE AROUND JUNE 10 OR THATS IN TWO MONTHS. WE WILL ALL BE MOVED TO THAT NEW JAIL AT THE END OF MAY IS WHAT I'M HEARING AND I GUESS THEY HAVE ONE ROOM FOR ALL S.O.'S SO WE WILL BE TOGETHER. I WILL CONTINUE TO POSTPONE MY RELOCATION AS LONG AS I CAN. I THINK WE NEED TO BE ALL WE NEED TO FIGHT THE WRIT OF H.C. BEFORE WE ARE CONVICTED BECAUSE I FOUND IN THE LAW LIBRARY THAT IT SAYS THE WRIT WOULD BE MADE RETURNABLE TO THE DISTRICT COURT IF THE DEFENDANT HAS NOT BEEN CONVICTED AND ALLOWED A NEW TRIAL BUT IF CONVICTED IT WOULD HAVE TO BE IN FRONT OF THE APPEALS COURT SO AUSTIN TO SEE IF THERE WAS GROUNDS FOR A NEW TRIAL. I ASKED MY NEW ATTORNEY FOR THAT REASON WHICH WAY WOULD BE BETTER. I THINK WE WOULD BE BETTER IF I STAYED IN THE DISTRICT COURT RIGHT NOW SO I THINK WE NEED TO HAVE A CHANCE OF A NEW TRIAL BEFORE WE GET CONVICTED FROM THE H.C. I ALSO ASKED HIM ABOUT WHETHER IT WOULD BE BETTER IF YOU GOT SENTENCED FEDS FIRST OR FOUGHT THE STATE THING FIRST. I WISH HE WOULD GET BACK WITH ME SO HE SHOULD HAVE GOTTEN THAT LETTER ON THE 7TH OF APRIL WHICH WAS OVER A WEEK AGO. HONESTLY I DON'T THINK WE WILL LOSE THE WRIT OF H.C. RETRIAL SO I THINK IT WOULD BE BETTER FOR YOU TO COME AND FIGHT THE STATE FIRST BEFORE YOU GOT SENTENCED FEDS. BUT IF YOU'RE SURE YOU CAN GET RESENTENCED WHEN WE BEAT THE STATE STUFF THEN GO AHEAD AND GET SENTENCED FEDS FIRST

Exhibit "P"
4 of 4

EXHIBIT "Q"

Exhibit "Q" is a letter written from Morrison to Jason on April 26, 2011. It shows the following:

1) Morrison's April 20, 2011 hearing was postponed and Morrison was not sure why, but suspected that the writ of habeas corpus was in place, and that is why the hearing was postponed.
2) Morrison was under the impression that since he was waiting on his discovery, and a response to his letter (Exhibit "E") to Rogers, that he would "just chill on everything and not push it until [Jason] got there."
3) This letter shows that Morrison was thinking he would be able to postpone his Motion to Revoke hearing until after Jason got done with his federal sentencing and came to Midland, and they could fight their writ issues together. It supports that Rogers did not tell Morrison the things he claims that he said in his affidavit.

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HEY BRO 4/26/11

I GOT YOUR letter on Monday 4/25/11 Right now its like 3 in the morning. I usually stay up from dinner which is around 3:30pm-4:00pm till after breakfast which is around 530 AM I usually go to sleep at 630-8:00 AM Then sleep till 3:30 or 4 PM. I guess my 4/20 hearing got postponed. They never called me to court and I havnt heard from my attorney on whats going on. I guess thats what we get for fighting to [illegible] I'm hoping the writ of H.C is in place and that is why it got posponed. I am still waiting on a response to my letter I wrote him 3 weeks ago. I am still waiting for all my Discovery. I am not really in to much of a hurry right now. I'm just gonna chill on everything and not push it until you get here. Keep praying you end up in the same tank as me. I guess I would be a good attorney cause I already forgot what I told you about how stupid the English language is. Isn't that what these good attorneys do always forget stuff. Ha Ha. That was a sarcastic remark to your Dipshit attorney. Thanks for telling me that story about the Israelites Doubting and Joshua and Caleb not Doubting. I used it to help a guy out in here who has been low on faith and worrying about stuff too much. I also gave that Bible study on faith that you sent me to three guys in here last week it seemed to help. Send me some more Bible study topics They want me to continue them. I think you can use that topic in one of your chapters about how God was to the Israelites back then and how he is still the same now, he is non changing. I've been praying alot to be more like Jesus and over the past few months I've been tough on some of my points of view about some things but showing much love to Everyone in here including the Dipshit

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EXHIBIT "R"

Exhibit "R" is a letter from Morrison to Jason written on May 3, 2011. It consists mainly of Morrison telling Jason about the events of the Motion to Revoke hearing of April 28, 2011. By reading this letter, it is obvious to the reader that Morrison had the same rationale that he had all along about prevailing on his habeas corpus issues, and he still thought his only err in his efforts was that he titled his pleading incorrectly. Morrison's mindset in this letter, written less than a week after his Motion to Revoke hearing, supports the fact that Morrison was not told the things that Rogers claims to have told him in the Affidavit of David Rogers. It also shows that Morrison was under the impression that Rogers was going to make sure his writ was filed properly up until the revocation hearing.

1) In the boxed in section on page 1 of 5, it is clear that Morrison thought the court would be fair and honor his Writ of Habeas Corpus, which he then realized was never filed. He complains that even though he titled the letter wrong, the court should have come to the conclusion that he wanted a new fair trial and honor his wish, regardless of what he called his pleading for relief.

a) This again shows that even at this time, Morrison did not know anything about what an ex parte communication was, or that the court would not consider his letter as any type of relief, or that it was not properly filed before the court. At the time Morrison wrote this letter, he was under the impression that the court cheated him out of his continuance, and honoring his writ, instead of realizing that he did not file his writ properly with the court. Morrison would not have come to this conclusion and wrote about this like he did in this letter, had Rogers actually told him the things that Rogers claims to have told Morrison about in his affidavit. This letter is more proof that shows Rogers did not properly counsel Morrison about his decision to reject the seven year plea offer.

2) Page 2 of 5 through 4 of 5 contain Morrison's brief account of the Motion to Revoke.

3) At the bottom half of page 4 of 5 Morrison puts the onus of his failure onto Judge Darr about the way the hearing turned out. He tells Jason: "[Rogers] tried to do a good job at trial but it was not fair. I had all my chess pieces with a bad ass defense, with all the stuff we found and everything [Rogers] knows too, and the Judge just kicked over the whole table and cheated."

a) This shows that Morrison at the time he wrote this, still thoght his defense was solid and his strategy (His chess pieces serving as a good defense) should have prevailed, but it did not because the judge kicked over the whole table and cheated.

b) Morrison assures the court if he knew at that point, or before the hearing on 4/28/11 that the court would not consider his writ because it was an ex parte communication, the court would not grant his continuance, was not going to consider any relief

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EXHIBIT "R"

from his request for relief, his rationale was mistaken and an incorrect legal rule, or the other things Rogers claims to have told him, he would not of accused Judge Darr as cheating and kicking over his chess pieces because he would have known that he did not actualy have any chess pieces to play with.

c) This comment is not the comment someone would make if they knew they had no chance to prevail, as Rogers claims Morrison knew before going into the hearing.

4) Morrison also tells Jason that he had a good feeling of The Holy Spirit and Jesus with him at the courthouse, and faith the size of a mountain that his habeas corpus would be honored and the continuance granted.

a) That again shows that Morrison thought with his whole being that he would have prevailed on his motion for continuance or had a habeas corpus hearing.

b) Morrison would not have had this kind of faith had Rogers told him the things he claims that he told him in the Affidavit of David Rogers.

5) At the bottom of page 4 Of 5 through page 5 of 5, it is apparent by Morrison's comment to Jason: "I'm curious to see how your case goes now that you filed the habeas corpus with the right wording. I guess you should go [A]head and try to get your preconviction writ of H.C. honored and keep postponing the revocation of probation trial until the writ is honored."

a) This comment is clear proof that even after his revocation hearing, Morrison, still thought his rationale was correct, that his only err in filing the writ improperly was that he titled it incorrectly.

b) Morrison assuresthe court had Rogers told him the things he claims he told him, that he surely would not have written this letter as he did, and he would have informed Jason on the proper way to file his writ.

6) The underlined comment on the middle of page 5 of 5: "I'm not sure what you should do now, except make sure you file the Writ right. I hope you can beat it in state now and be the vanguard for my case." again supports that Morrison thought his rationale was solid at that time and that Rogers did not tell him the things he claims.

a) If Rogers would have told Morrison the things he claims in his affidavit, Morrison would have explained to Jason in this letter or one before it the proper way to file a writ so it would be seen by the judge and given consideration, Morrison would have also informed Jason about the case law that said the intentionally or knowingly culpable mental state does not apply to "of a child" in 22.011. The fact that Morrison has not written about these things that Rogers has claimed to tell him, shows that Rogers did not properly counsel Morrison about the laws that affected his decision to reject the seven year plea offer. The underlined comment at the bottom of page 5 of 5 also supports the above assertion. It also shows Morrison thought Rogers would handle his writ and file it properly.

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Hey BRO 5-3-11

How are you? I'm ok I guess you heard I got anally Raped with a huge Dump Truck. [redacted]

By The way I'm in odessa now at The very nice and comfortable ECCC. There are now 9 guys over here I have to sleep in a Boat on The floor next to two other Dudes. The last letter I wrote you I was under The impression since my 4-20 court Date got postponed The 385Th Judicial District court was gonna Be Fair and honor my writ of habeas corpus which I guess never got filed with The county or circuit court. I wrote The county clerk of The court Ross Bush on March 1st to ask for all my Discovery and tell him I wanted to Appeal The case. Back Then I DiDn't Know it was called A writ of Habeas corpus or Did I call it That in Judge Darrs Letter But by The Description of what I wanted The court should have come to The conclusion I wanted a new fair Trial and honored my wish either way by an Appeal, a Petition for Discretionary Review or A writ of H.C. Before The court David Rogers came and talked to me in The holding cell at The courthouse and told me That The probation revocation was a Go and he was gonna Just Throw out a Bunch of objections. I told him we needed to postpone That cause I needed to Take care of The habeas corpus and I showed him in The law where since I wasn't convicted yet That The habeas corpus should Be honored in The District court instead of The Appellant court and I should Be Allowed To start every Thing over when we got to court he read That to The Judge and he fucked up and Tried to File A post conviction writ of Habeas corpus which The Judge Denied Because I hadn't Been convicted yet Then I said "no, no, its a pre conviction writ" But it was to late he asked for a continuance on The probation Revocation so The writ could have Time to Get filed. The prosecutor said "All The witnesses

~~If that is on record your should have ... ou ... from ... appeal!~~

... HAD NOT ... TOLD ... THAT ... letter ... OR THIS ...

EXHIBIT "R"
1 of 5

(2)

We don't have a problem with that because

are here already But the number 7 Revocation indictment of Mr. Morrison Beaney convicted on a federal count for failure to register as a sex offender will have to be removed because it is found out he is Appealing that case. Judge Hart Brought for a minute then said the Hearing will continue, continuance denied. Then the prosecutor called the first witness who was Ramona Martin Kim's supervisor They spent 20 minutes talking about how much I owed probation and what months I did not pay They said I owed $1280 which is Bull shit when I left I still owed $264 hundred. on the first indictment it was back then my Attorney said since [redacted] They modified my probation in April of 09 when I went to Jail that They should of took care of every thing before that then so They only could use stuff after may of 2009, which that was The only objection [redacted] sustained everything but in count count two was not telling probation about my change of address after 3 days. My Attorney Asked Ramona The definition of change of address she said when you move Permanent addresses You have to notify them. he asked what happens when someone who goes on vacation. she said if it's longer than 5 days then They have to tell the municipality They are visiting where they will be at he then Asked her if I was charged with that one and Ramona said that it was just changing my address. he then Tried to prove that I never had a permanent address to change that It was like a vacation. he Tried to get the prosecution to prove I had primarily changed my address I don't know how they did But they proved it. cause I was found guilty for count 2 and 3. fines of not changing address. count 3 was the Possession of marijuana when I failed the UA in Sept of 2008. The prosecution Brought that up then told Judge Hart she would drop that count since I already got modified for probation for that. count 4 was the NOT payment of the $20 UA fee. Ramona said with further investigation of the files I did pay that so that got Dropped. Ramona went to sit Down

How can you be guilty for not changing your address when you had no change of address to

EXHIBIT "R"
2 of 5

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(3) Then they pulled up US Marshall Steve Clark to testify that he was investigating the fact that we absconded probation and was found in Washington on a warrant for Residential Burglary. My attorney objected to all he said because it was all hearsay Rule 602 on 701 and 603 and 802 and that all of it got overruled between him and detective Cantrell or something like that. That is the dude that explains searching they did their best to prove I didn't tell them within 7 days prior to me moving that I had intent to move and I didn't register with a new municipality. My attorney made them look stupid because of the vacation defense again. I thought by the way they answered his questions about beyond that the prosecution could not prove I had intent to change my permanent residence or was in one jurisdiction for long as then 7 days. But I was found guilty on that too. The two new counts that I never got any paper work on or a indictment or court notification about to let me have time to build a defense too were #6 which was that I missed 3 reports in May of 2009 to probation. Since Romona wasn't our reporting supervisor he tried the hearsay objection on the fact that she could not or seen us not show up but he was overruled on that too so I was found guilty on that too #7 was that I pled guilty and was charged with failure to register in federal court. The prosecution pulled that from the indictment cause of my appeal but it was already in the judge's mind so in reality I was found guilty on that too but not on paper along with the other stuff the D.A. blasted out there that she then conveniently recanted. So on paper I got sentenced to 16 years in TDCJ for 1) moving $1200 2) not telling probation I had a new address within 3 days after I moved 3) not telling the MPO I was moving within 7 days prior to my move and not registering with any municipality where I was and number 4) missing 3 weeks at probation in May 2009. 5) making a mistake in judgment of someones age who was initiating me to

NO

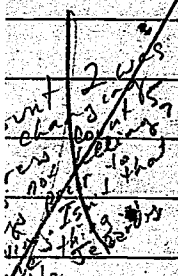

EXHIBIT "R"
3 OF 5

(4) have sexual Relations with Them. The prosecutors Final statements were "Judge I Recommend The max sentence possible Mr Morrison's Heinous crime can't go unpunished or lightly punished. he is a Threat to society Because of his crimes and has shown Repeatedly while on probation he can't comply with Rules and Now he left The state of Texas without permission. My attorney said "Yes I had one hiccup on probation That These technical violations are just trivial and do not warrant a lot of Time and he recommended I get The minimum and put Back on probation. She told me The counts she found me guilty on which was All of Them except The ones The prosecution dropped and she gave me 16 Years For The original charge. I almost passed out. David Rogers was Furious and said we would Appeal It Because of All The Bullshit objections she over Ruled. I also have Grounds to Appeal cause I never got any discovery That I Requested and They put Two more counts on my indictment without notifying me about. I went to Trial on something I had no Time to prepare for like That would of mattered Anyway Because I never was Allowed to prepare The other shit cause I never Recieved nothing to help me. I Got screwed all The way around. Two days after my Trial I Got All The motions in The mail That my Attorney Filed 10 days Before my Trial for my Discovery. I Guess he Filed it on The 18th Then mailed The motions to me The day Before my Trial. I Think he ended up Being a 18 wheeler Truck. Maybe not. He Tried to do a good Job at Trial But IT was not fair. I had All my chess pieces with a Bad Ass Defense with all The stuff we found and everything he knows too And The Judge Just Kicked over The whole Table And cheated. I hope it is Just so Blatant To The Appelant Judges That They overturn The whole Thing. I had a good feeling of The Holy spirit and Jesus with me in There And faith The size of a mountain I would of got my Habeas corpus handled and The continuance approved But Ended up with way more Time. My faith faultered a couple Days But Now its Back full force And I have faith The Appeal will Be Good For us. Im curious to see how your case goes now That you filed The Habeas corpus with

Exhibit "R"
4 of 5

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(5)

The Right wording, I Guess you should Go head and TRY TO GET YOUR PRE CONVICTION WRIT OF H.C. honored And keep postponing The Revocation of probation trial until The Writ is honored. Don't take it to trial though unless in The plea of 7 Years They TRY TO Say you can't appeal it. Maybe you should sign for The DA's second offer mine was 7 Years. I'd hate to see You Go Do like me and get 16 Years plus The 5 in federal and Judge Jurrell and Darr say TO RUN Them consecutive like They DID Me Then You parole out in The earliest is 8 Years in State and Do 3 or 4 in feds so you End up with a total of 11 or 12 Years locked up if The Appellant courts show no love. I'm not sure what you should Do now except make sure You file The writ Right. I hope you can beat it in State now and Be The vanguard for my case since I Got fucked. I requested my State credited Jail Time and They say as of 4/25/11 I had 340 Days credited They gave me credit from 5/25/10 from Benton county. I Got 1 day for 12/23/03 when we turned ourselves in. I Got 1 day on 3/30/05 when I Got Arrested for That weed charge, I Got 3 days on 7/25/06 - 7/28/06 From when I had The probation violation for The weed pipe charge. So That's 340 days, I Think They owe me The 90 days I DID From 5/17/05 - 8/14/05 But Don't petition There if That is The case I should have 437 or 438 days as of today which is 14 months or so Done. I hope They Do you Better Than I Got Done. I hope You can learn From what I DID wrong And file The writ Right and make sure Your attorney Knows what To Do. David told me That He was hired To Do The Revocation and The writ was out of his scope. That pissed me off Because he said That 5 minutes Before we went To Trial and I was under The impression he handled That Because in my individual Arrest report on 4/1/11 I have a ENTRY in That Of a writ of Habeas corpus filed on That Date. I was told That was cause I was in Feds and They Do That To get me To State when I told him About That. Study Exactly what you have To Do to file a Pre Final conviction writ of H.C. You are The one who

Shows Rogers at This point had not told me about Ex part conn or my filings were improper or The cms would not matter etc. If he had I would have told Jason at This point or Done.

Shows I Thought Even After Hearing we still had a shot Because of Intentionally or knowingly having to be proved. If Rogers would have told me my indictment was incorrect about That I would have not said That to Jason.

Shows I Thought Rogers would file my writ Right

contrary to letter 4-25-11

Exhibit "R" 5 of 5

EXHIBIT "S"

Exhibit "S" is a copy of the envolopes the letters Exhibits "O"-"R" were mailed in from Jared Morrison from Midland County Detention or Ector County Correctional Center (ECCC) to Jason Morrison at Odessa Dentention Center (O.D.C.).

There was no envolope available for Jason's 3/10/11 letter to Morrison (Exhibit "N"), because the Midland County Jail did not let inmates have the envolopes.

The post marks are sufficient proof that these letters were mailed at that time.

TX 797 2 L
19 APR 2011 PM

USA FIRST-CLASS FOREVER

4/16/11

JASON MORRISON 6790
O.D.C
PO BOX 2247
ODESSA TX 79760

Exhibit "P" envelope

79760+2247

20

EXHIBIT "S"
1 of 2

Jared Morrison
Midland County Detention
P. O. Box 11387
Midland, TX 79702

MIDLAND/ODESSA TE
FEB 27
2011

USA FIRST-CLASS FOREVER

4/26/11

JASON MORRISON 6790
O D C
PO BOX 2247
ODESSA, TX 79760

Exhibit "Q" envelope

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EXHIBIT "S"
2 of 2

EGCC
PO Box 1588
ODESSA TX 79760

THIS IS CORRESPONDENCE FROM AN INMATE IN A CORRECTIONAL FACILITY.
ECTOR COUNTY CORRECTIONAL CENTER

MIDLAND/ODESSA
TX 797 1 T
05 MAY 2011 PM

USA FIRST-CLASS FOREVER

5/3/11

JASON MORRISON 6790
ODC
PO BOX 2247
ODESSA TX 79760

G

Exhibit "R" envelope

79760+2247

20

JARED MORRISON
Midland County Detention
P. O. Box 11387
Midland, TX 79702

Jared's Federal Appeal letter

Jareds appeal letter to Junell is on page 15

MIDLAND/ODESSA
APR
2
PM
79

USA FIRST-CLASS FOREVER

3/25/11
IS THAT ENOUGH POSTAGE THIS TIME?

JASON MORRISON 6790
ODC
PO BOX 2247
ODESSA TX 79760

G

Exhibit "O" envelope

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MO15CV-069

NO. CR 29320-A

EX PARTE	§	IN THE DISTRICT COURT
	§	385TH JUDICIAL DISTRICT
JARED MORRISON	§	MIDLAND COUNTY, TEXAS

MOTION TO OBJECT TO THE AFFIDAVIT OF RODIAN CANTACUZINE JR.

[LIVE EVIDENTIARY HEARING REQUESTED TO RESOLVE INCONSISTENCIES]

Comes now Applicant, Jared Morrison (**"Morrison"**), and presents this Motion to Object to some statements made in the Affidavit by Rodian Cantacuzine JR (**"Cantacuzine"**), Morrison's former, 2004, attorney, which was filed on February 3, 2015. Morrison will show the following:

1) On February 11, 2015 Morrison received the Affidavit of Rodion Cantacuzine Jr. Upon reading the affidavit, however mostly true, Cantacuzine made a few statements that are inconsistent with what actually happened.

2) ~~Rogers~~ CANTACUZINE stated that he told Morrison that it was not a legal defense at the guilt or innocence phase of trial that the victim may have lied about her age, or that Morrison or his brother reasonably believed the victim was of legal age to consent to the sexual act, and that his mistake of fact would not give rise to this defense if he preceeded to trial, and the result of the trial would be a conviction.

a) This statement is partly true and partly false. What Cantacuzine told Morrison was that it did not matter that Morrison thought the Minor was an adult, if he went to trial, he would be found guilty and sentenced to 15 to 20 years because "ignorance of the law is no defense," and the jury would have to go by the letter of the law. Considering the semantics of that statement, Morrison initially did not take that statement as untrue, but after reading the Texas Penal Code while being in jail, waiting on being sentenced for his probation violations, he realized that mistake or ignorance of the law which is no defense (section 8.03), and mistake of fact which is a defense (8.02), were entirely two different canons of law. According to statute, one was a defense and the other was not. He then understood that he was not claiming he was ignorant of the law, because he knew it was a crime to have sex with minors, Morrison was claiming that he had a mistake about the facts that constituted the offense, which he had a reasonable mistaken belief that the child in his offense was an adult, therefore, Morrison understood that Cantacuzine had incorrectly informed him about the wrong canon of law, that "ignorance of the law is no defense," which was not what Morrison was claiming. Between him finding that out, and by interpreting the plain language of 22.011, 6.02, and 2.01 literally, Morrison was under the impression that what Cantacuzine and Morgan had told him and Jason was untrue. Therefore Morrison rejected the seven year plea offer, wrote Judge Darr the letter requesting

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relief, and ultimately went into the revocation hearing and was sentenced to 16 years prison.

Cantacuzine never specifically told Morrison that Morrison's knowledge that the child was under the age of 17 was not an element of 22.011 or that his mistake of fact was no defense.

3) Cantacuzine said Morrison entered a plea of guilty and received deferred adjudication and while entering this plea of guilty did not make Morrison happy, Morrison's decision to plea guilty to the plea offer was made freely and voluntarily with knowledge of the facts for and against him.

Morrison concedes to the fact that Cantacuzine did inform him about the facts of the law in relation to the result of a conviction if he did go to trial, as interpreted by the Court of Appeals. Morrison has never denied that. Granted, Cantacuzine, like the Vasquez Court in Vasquez v. State 622 S.W.2d 864(Tex. Crim 1981), meshed 8.02 and 8.03 together diminishing the defense of mistake of fact, which later spurred Morrison to write the request for relief because he was not claiming ignorance of the law. Also, Morrison's reliance on Johnson v State 967 S.W.2d at 858, and the plain language of 22.011, 6.02, 2.01, with 8.02 made Morrison feel like he was coerced into pleading guilty to the charge, because what he read in the law books said he was not guilty of every element of the crime. Even though Morrison still feels like his plea was coersed, and he was scared into pleading guilty, Morrison can now see the reasoning behind Cantacuzine and Morgan's firmness in telling them to accept the plea offer, which Morrison now knows was based off of the Court of Appeals interpretation of 22.011 being a strict liability statute, therefore, Morrison does not have an issue with Cantacuzine or Morgan about his coerced plea in that respect, and that issue is not alleged in the instant Post-Conviction Writ of Habeas Corpus, except as facts of the case leading up to the issues that Morrison does claim as Ineffective assistance of counsel.

Morrison's only issue presently, with Cantacuzine is that he does feel that the plea was involuntarily made because Cantacuzine did not investigate and research Morrison's case. Morrison feels that Cantacuzine should have recognized and raised, like Morrison has now done, that the strict liability aspect of 22.011 was predicated off of pre-1983 law and was actually superseded by 22.011 in 1983 when the Legislature clearly prescribed a culpable mental state into the statute, and never plainly dispensed with any mental element. Cantacuzine should have also recognized that a proper reading of 22.011 in conjunction with 6.02, 8.02, and 2.01 along with Supreme Court statutory interpretation holdings regarding mens rea and statutory construction issues made the Court of Appeals' interpretation questionable, as Morrison has proved in his ground two and ground five. Plus, Cantacuzine failed to research, raise, and object to the other constitutional infirmities that the strict liability has caused as shown in Morrison's grounds 2-7. Because Cantacuzine

failed to properly investigate and research Morrison's case and he did not realize that 22.011 being strict liability was unconstitutional, and he did not raise these issues, Morrison's plea of guilty was involuntary, and if Cantacuzine would have properly researched the unconstitutional strict liability interpretation and informed Morrison about it being unconstitutional, Morrison would not have pled guilty and would have went to trial.

a) If Morrison, only a high school graduate, and U.S. Navy veteran, who worked in construction most of his life, was able to research and find all the facts that support his six unconstitutional claims regarding the unconstitutional strict Liability interpretation of 22.011 as raised in his grounds 2-7 in the instant 11.07, and articulated his argument in a memorandum of law, which took six months to do, with limited resources, and him proving the constitutional questions have merit, surely a college educated, law school graduate, with years of experiance, and unlimited resources could have researched the questionable and unconstitutional strict liability interpretation that Morrison objects to now, in the four months Cantacuzine was retained by Morrison, especially since Cantacuzine "has always questioned whether it is just or right that the defense of mistake of fact is unavailable as a legal defense in a sexual assault of a child case."

PRAYER

All things considered, Morrison prays that this Honorable Court take these arguments into consideration when determining the facts and conclusions of law relating to this ineffective assistance of counsel claim. Morrison also prays that this fine court orders a live evidentiary hearing so he can be afforded the opportunity to confront Ian Cantacuzine about the inconsistencies that he objects to now which may be left unresolved. Morrison prays the court orders a bench warrant to subpoena him for any live hearings so he can be present for them.

INMATE'S UNSWORN DECLARATION

I Jared Morrison, #1747148, being presently incarcerated at the Huntsville Unit, Walker County, Texas of the Texas Department of Criminal Justice, declare under penalty of perjury the aforementioned statements are true and correct.

Executed on Februrary 20, 2015

2/20/15

Jared Morrison #1747148
Huntsville Unit
815 12th Street
Huntsville, TX 77348

MO15CV-069

NO. CR 29320-A

EX PARTE	§	IN THE DISTRICT COURT
	§	385TH JUDICIAL DISTRICT
JARED MORRISON	§	MIDLAND COUNTY, TEXAS

MOTION FOR LIVE EVIDENTIARY HEARING

Comes now applicant Jared Morrison (**"Morrison"**), and presents this motion for a live evidentiary hearing so that Morrison can confront David Rogers and Ian Cantacuzine before this Honorable Court so to resolve any inconsistencies that may remain after the Court has seen the accompanying motions and exhibits that Morrison wishes to file with the Court regarding Morrison's ineffective assistance of counsel claims that he lodged in his Post-Conviction Writ of Habeas Corpus filed on December 30, 2014. Morrison shows the following:

1) On January 22, 2015 this Honorable Court designated an order for issues to be resolved for the above cause and ordered Morrison's previous counsel to send the Court affidavits to resolve issues of fact raised in Morrison's Post Conviction Writ of Habeas Corpus.
2) On January 30, 2015 David Rogers filed his affidavit with the court.
3) On Februrary 3, 2015 Ian Cantacuzine filed his affidavit with the court.
4) On Februrary 11, 2015 Morrison received the affidavits by U.S. Mail and upon reading the affidavits realized there were several inconsistencies in them, therefore, Morrison drafted the accompanying motions:
   a) Motion to Disqualify Affidavit of David Rogers.
   b) Motion to Object to the Affidavit of Rodion Cantacuzine Jr.
5) On Februrary 15, 2015 Morrison contacted his Mother Jana Morrison to ask her to send him a copy of some of his old letters that him and his brother Jason Morrisonwrote from the relevent time in 2011 so to send to the court to show his rationale at that time, which would shoow that David Rogers' affidavit was not true.
6) Morrison received the letters on Februrary 23, 2015, then started incorporating them into his Motion to Disqualify Affidavit of David Rogers.
7) Morrison finished this task on Februrary 27, 2015 and now sends these Motions to his Mother Jana Morrison to copy and serve the other parties, and to file with the court.

PRAYER

All things considered Morrison now prays that this Honorable Court order a live evidentiary hearing and bench warrant so he can come in front of this fine Court so to confront Ian Cantacuzine, and David Rogers to resolve the inconsistencies that may remain.

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NO. CR 29320-A

EX PARTE	§	IN THE DISTRICT COURT
	§	385TH JUDICIAL DISTRICT
JARED MORRISON	§	MIDLAND COUNTY, TEXAS

MOTION FOR BENCH WARRANT

Comes now applicant Jared Morrison ("Morrison"), and presents this motion for bench warrant so that Morrison will be brought to Midland County in the event that this fine Court graciously orders an evidentiary hearing so that he can resolve any issues that may be left unresolved, and confront Ian Cantacuzine and David Rogers. Morrison shows the following:

1) Morrison has presented this court with a Motion requesting a live evidentiary hearing, so that he can be present and resolve any issues regarding the facts of his ineffective assistance of counsel claims in the above cause.

PRAYER

All things considered, Morrison prays that this Honorable court orders a bench warrant so he will be able to be present at any evidentiary hearing that this fine court allows.

INMATE'S UNSWORN DECLARATION

I Jared Morrison, #1747148, being presently incarcerated at the Huntsville Unit, Walker County, Texas of the Texas Department of Criminal Justice, declare under penalty of perjury the aforementioned statements are true and correct.

Executed on Februrary 27, 2015

2/27/15

Jared Morrison #1747148
Huntsville Unit
815 12th Street
Huntsville, TX 77348

CERTIFICATE OF SERVICE

I hereby certify that on February 27, 2015 a true and correct copy of the following motions were mailed to Jana Morrison to copy and hand deliver to Ian Cantacuzine, the State Attorney's office, David Rogers, and to file in the 385th Judicial District Court:

1) Motion to Disqualify Affidavit of David G. Rogers (Including Exhibits "N"- "S")
2) Motion to Object to the Affidavit of Ian Cantacuzine Jr.
3) Motion for Live Evidentiary Hearing
4) Motion for Bench Warrant.

The addresses of the parties being hand delivered these motions are:

David Rogers
214 West Texas Avenue, Suite 811
Midland, TX 79701

Ian Cantacuzine
1605 North Big Spring Street
Midland, TX 79701

STATE'S WRIT OF HABEAS CORPUS ATTORNEY
State Attorney's Office
500 North Loraine Suite 200
Courthouse
Midland, TX 79701

Clerk of the Court
385th Judicial District
500 North Loraine Suite 801
Courthouse
Midland, TX 79701

2/27/15

Jared Morrison #1747148
Huntsville Unit
815 12th Street
Huntsville, TX 77348