

No. WR-93,354-01

IN THE COURT OF CRIMINAL APPEALS OF TEXAS, AT AUSTIN

In re State *ex rel.* Brent Smith

Respondent

Supplement to Application for Writ of Prohibition

TO THE HONORABLE COURT OF CRIMINAL APPEALS:

COMES NOW, Brent Smith, County Attorney for Kinney County, Texas, (“Relator”), having previously filed an application for writ of prohibition, complaining of the actions of the Hon. Vivian Torres, Hon. Genie J. Wright, and Hon. Kitty Schild, each then sitting by assignment in the County Court of Kinney County (“Respondents”), and would supplement said Application with proof of the violations alleged therein. Relator would, therefore, show the Court as follows.

The following proof of the original allegations is submitted solely for posterity and for the Court’s edification. Relator believes the Court’s record should contain proof of the original allegations.

In his application for writ of prohibition, Relator alleged that, in many of the more than 1,500 pending cases arising out of Gov. Abbott’s “Operation Lone Star” emergency initiative, attorneys for the defendants filed pleadings in the form of

applications for pre-trial writs of *habeas corpus*; motions to quash the information; motions to set aside the information; motions to dismiss the information; motions to reduce bond, and motions for release on personal bond. Relator also alleged, on information and belief, that one or more of the Respondents had granted some form of relief in these pre-trial matters without notice to the State and/or without conducting a hearing at which the State may be heard. Relator would now show the Court that:

1. In case number 10554CR, styled *The State of Texas v. Gerardo Acosta Sanchez*, an Order granting personal recognizance bond was entered on December 1, 2021. Notice that the Order had been entered was not served on Relator until 11:59 a.m. on December 2, 2021 (see Exhibit “A” attached hereto), while Defendant’s “Waiver of Arraignment and Order Setting Pretrial Hearing” was not served on Relator until December 2, 2021, at 12:28 p.m. (see Exhibit “B” attached hereto).
2. In case number 10558CR, styled *The State of Texas v. Luis Carlos Soltero Castellon*, an Order granting personal recognizance bond was entered on December 1, 2021. Notice that the Order had been entered was not served on Relator until 11:45 a.m. on December 2, 2021 (see Exhibit “C” attached hereto), while Defendant’s “Waiver of Arraignment and Order Setting Pretrial Hearing” was not served on Relator until December 2, 2021, at 12:25 p.m. (see Exhibit “D” attached hereto).
3. In case number 10562CR, styled *The State of Texas v. Javier Ahedo Arias*, an Order granting personal recognizance bond was entered on December 1, 2021. Notice that the Order had been entered was not served on Relator until 11:42 a.m. on December 2, 2021 (see Exhibit “E” attached hereto), while Defendant’s “Waiver of Arraignment and Order Setting Pretrial Hearing”

was not served on Relator until December 2, 2021, at 12:27 p.m. (see Exhibit “F” attached hereto).

Relator had no prior notice of the December 1st hearing at which the Order granting bond was entered. See Relator’s declaration, attached as Exhibit “G” hereto

Prayer

Relator respectfully prays this Court to will permit this supplementation so that the record is complete.

Respectfully submitted,

/s/ Brent Smith

Brent Smith

County Attorney for Kinney County

SBN 24080722

Box 365

Brackettville, Texas 78832

Tel. (830) 563-2240

Fax: (830) 563-2644

Certificate of Compliance and Delivery

This is to certify that: (1) this document, created using MSWord™ software, contains 532 words, excluding those items permitted by Rule 9.4 (i)(2)(B),

Tex.R.App.Pro., and complies with Rules 9.4 (i)(2)(B) and 9.4 (i)(3), Tex.R.App.Pro.; and (2) on December 14, 2021, a true and correct copy of the above and foregoing document was transmitted via the eService function on the State's eFiling portal, to Respondents Hon. Kitty Schilds (kschild@elp.rr.com), Hon. Vivian Torres (judgetorres@schuchartlaw.com), and Genie J. Wright (geniejwright@gmail.com).

Respectfully submitted,

/s/ Brent Smith

Brent Smith

Exhibit “A”

CAUSE NO. 10554CR

STATE OF TEXAS § IN THE COUNTY COURT
V. § OF
Gerardo ACOSTA SANCHEZ § KINNEY COUNTY, TEXAS

ORDER GRANTING PERSONAL RECOGNIZANCE BOND

The Court enters the following ORDERS: Bond shall be set for said Defendant as follows: A **No-Fee Personal Recognizance (PR) Bond** in the amount of \$3,000.00 in this cause number only.

IT IS FURTHER ORDERED that the following condition(s) shall apply:

1. Defendant **shall report to his attorney** of record on a monthly basis beginning within 30 days of this order by text or by telephone to report his contact information;
2. Defendant shall appear for a Pre-Trial setting on January 25, 2022, 8:30 am Central Time via Zoom and for all other court settings at the Kinney County Courthouse, or as directed by his/her attorney of record, and as ordered by this Court;
3. The Defendant shall be immediately released from TDCJ custody; and
4. The Defendant is admonished that failure to appear at the next court setting could result in the issuance of a warrant for his arrest and the filing of additional criminal charges.

SIGNED this the 1st day of December, 2021.

Vivian Torres, V.J.
JUDGE PRESIDING

The aforementioned bond conditions were understood and agreed to by me.
Signed on this 01 day of December, 2021 by:

Gerardo S.A.
DEFENDANT

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Envelope ID: 59638706
Status as of 12/2/2021 12:24 PM CST

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Brent Smith		bsmith@co.kinney.tx.us	12/2/2021 11:59:33 AM	SENT

Exhibit “B”

CAUSE NO. 10554CR

STATE OF TEXAS	§	IN THE COUNTY COURT
	§	
V.	§	OF
	§	
Gerardo ACOSTA SANCHEZ	§	KINNEY COUNTY, TEXAS

WAIVER OF ARRAIGNMENT AND ORDER SETTING PRE-TRIAL HEARING

COMES NOW, the Defendant by and through his attorney and respectfully shows this Court as follows: said Defendant is the same person named herein, Defendant's name is correctly set out herein, Defendant understands the elements of the offense charged and hereby enters a plea of "Not Guilty." The Defendant would further show this Court that said Defendant understands that he has the right to be served with a copy of the information and that said Defendant has the right to be formally arraigned. Understanding these rights, said Defendant does hereby intentionally, freely, knowingly and voluntarily waive the right to be served with a copy of the information, waive all formalities of arraignment and waive Defendant's right to be arraigned until the time of trial. Moreover, pursuant to Article 26.011 of the Texas Code of Criminal Procedure, an attorney representing Defendant may present a waiver of arraignment and the clerk of the court may not require the presence of Defendant as a condition of accepting the waiver.

Further, Defendant and his attorney acknowledge the Court's requirement that all pretrial matters set out in Article 28.01 of the Texas Code of Criminal Procedure must be raised by written pleadings filed seven (7) or more days before the pre-trial hearing set herein below. Any such matters raised after said time will not be considered absent express permission of the Court for good cause shown.

/s/ Amrutha N. Jindal

Amrutha N. Jindal
State Bar #: 24065809
RESTORING JUSTICE
P.O. Box 2813
Houston, Texas 77252
(832) 386-6198
amrutha@restoringjustice.org

The aforementioned waiver of arraignment & order setting pretrial hearing was understood and agreed to by me.

Signed on this 01 day of December, 2021 by:

Garcia D.S.A

DEFENDANT

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Envelope ID: 59640398
Status as of 12/2/2021 12:32 PM CST

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Brent Smith		bsmith@co.kinney.tx.us	12/2/2021 12:28:57 PM	SENT

Exhibit “C”

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Envelope ID: 59637777
Status as of 12/2/2021 12:22 PM CST

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Brent Smith		bsmith@co.kinney.tx.us	12/2/2021 11:45:25 AM	SENT

Exhibit “D”

CAUSE NO. 10558CR

STATE OF TEXAS	§	IN THE COUNTY COURT
	§	
V.	§	OF
	§	
Luis Carlos SOLTERO CASTELLON	§	KINNEY COUNTY, TEXAS

WAIVER OF ARRAIGNMENT AND ORDER SETTING PRE-TRIAL HEARING

COMES NOW, the Defendant by and through his attorney and respectfully shows this Court as follows: said Defendant is the same person named herein, Defendant's name is correctly set out herein, Defendant understands the elements of the offense charged and hereby enters a plea of "Not Guilty." The Defendant would further show this Court that said Defendant understands that he has the right to be served with a copy of the information and that said Defendant has the right to be formally arraigned. Understanding these rights, said Defendant does hereby intentionally, freely, knowingly and voluntarily waive the right to be served with a copy of the information, waive all formalities of arraignment and waive Defendant's right to be arraigned until the time of trial. Moreover, pursuant to Article 26.011 of the Texas Code of Criminal Procedure, an attorney representing Defendant may present a waiver of arraignment and the clerk of the court may not require the presence of Defendant as a condition of accepting the waiver.

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/s/ Amrutha N. Jindal

Amrutha N. Jindal

State Bar #: 24065809

RESTORING JUSTICE

P.O. Box 2813


Houston, Texas 77252

(832) 386-6198

amrutha@restoringjustice.org

The aforementioned waiver of arraignment & order setting pretrial hearing was understood and agreed to by me.

Signed on this 1 day of December, 2021 by:

A handwritten signature in black ink, appearing to read 'Amrutha N. Jindal', is written over a horizontal line.

DEFENDANT

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Envelope ID: 59640242
Status as of 12/2/2021 12:31 PM CST

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Brent Smith		bsmith@co.kinney.tx.us	12/2/2021 12:25:50 PM	SENT

Exhibit “E”

CAUSE NO. 10562CR

STATE OF TEXAS

§
§
§
§
§

IN THE COUNTY COURT

V.

OF

Javier Ahedo Arias

KINNEY COUNTY, TEXAS

ORDER GRANTING PERSONAL RECOGNIZANCE BOND

The Court enters the following ORDERS: Bond shall be set for said Defendant as follows: A **No-Fee Personal Recognizance (PR) Bond** in the amount of \$3,000.00 in this cause number only.

IT IS FURTHER ORDERED that the following condition(s) shall apply:

1. Defendant **shall report to his attorney** of record on a monthly basis beginning within 30 days of this order by text or by telephone to report his contact information;
2. Defendant shall appear for a Pre-Trial setting on January 25, 2022, 8:30 aCentral Time via Zoom and for all other court settings at the Kinney County Courthouse, or as directed by his/her attorney of record, and as ordered by this Court;
3. The Defendant shall be immediately released from TDCJ custody; and
4. The Defendant is admonished that failure to appear at the next court setting could result in the issuance of a warrant for his arrest and the filing of additional criminal charges.

SIGNED this the 1st day of December, 2021.

Vivian Torres, V.J.

JUDGE PRESIDING

The aforementioned bond conditions were understood and agreed to by me.
Signed on this 1 day of December, 2021 by:



DEFENDANT

Exhibit “F”

CAUSE NO. 10562CR

STATE OF TEXAS

V.

Javier Ahedo Arias

§
§
§
§
§

IN THE COUNTY COURT

OF

KINNEY COUNTY, TEXAS

WAIVER OF ARRAIGNMENT AND ORDER SETTING PRE-TRIAL HEARING

COMES NOW, the Defendant by and through his attorney and respectfully shows this Court as follows: said Defendant is the same person named herein, Defendant's name is correctly set out herein, Defendant understands the elements of the offense charged and hereby enters a plea of "Not Guilty." The Defendant would further show this Court that said Defendant understands that he has the right to be served with a copy of the information and that said Defendant has the right to be formally arraigned. Understanding these rights, said Defendant does hereby intentionally, freely, knowingly and voluntarily waive the right to be served with a copy of the information, waive all formalities of arraignment and waive Defendant's right to be arraigned until the time of trial. Moreover, pursuant to Article 26.011 of the Texas Code of Criminal Procedure, an attorney representing Defendant may present a waiver of arraignment and the clerk of the court may not require the presence of Defendant as a condition of accepting the waiver.

Further, Defendant and his attorney acknowledge the Court's requirement that all pretrial matters set out in Article 28.01 of the Texas Code of Criminal Procedure must be raised by written pleadings filed seven (7) or more days before the pre-trial hearing set herein below. Any such matters raised after said time will not be considered absent express permission of the Court for good cause shown.

/s/ Amrutha N. Jindal

Amrutha N. Jindal

State Bar #: 24065809

RESTORING JUSTICE

P.O. Box 2813

Houston, Texas 77252

(832) 386-6198

amrutha@restoringjustice.org

The aforementioned waiver of arraignment & order setting pretrial hearing was understood and agreed to by me.

Signed on this 1 day of December, 2021 by:

A handwritten signature in black ink, appearing to read "Amrutha N. Jindal", is written over a horizontal line. The signature is enclosed in a hand-drawn oval.

DEFENDANT

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Envelope ID: 59640313
Status as of 12/2/2021 12:32 PM CST

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Brent Smith		bsmith@co.kinney.tx.us	12/2/2021 12:27:17 PM	SENT

Exhibit “G”

No. WR-93,354-01

IN THE COURT OF CRIMINAL APPEALS OF TEXAS, AT AUSTIN

In re State *ex rel.* Brent Smith

Respondent

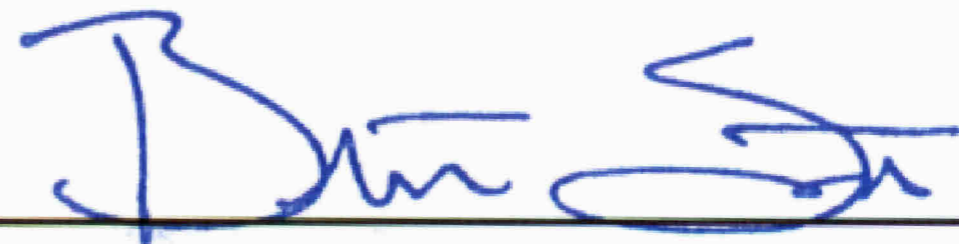
**Declaration of Brent Smith Pertaining to
Supplement to Application for Writ of Prohibition**

I, Brent Patrick Smith, declare under penalty of perjury that the following statement is within my personal knowledge and is true and correct:

I am a lawyer, licensed to practice in the State of Texas, carrying State Bar of Texas card number 24080722, and County Attorney for Kinney County, Texas. I am more than 18 years old, and my address is Box 365, Brackettville, Texas 78832.

I have reviewed the "Supplement to Writ of Prohibition." All factual assertions and allegations made therein are within my personal knowledge and are true and correct.

Executed in Kinney County, State of Texas, on the 14 day of
December, 2021.



Brent Patrick Smith

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Anne Boyde on behalf of Brent Smith
Bar No. 24080722
officemanager@texasappeallawyers.com
Envelope ID: 60022035
Status as of 12/15/2021 8:28 AM CST

Associated Case Party: Brent smith

Name	BarNumber	Email	TimestampSubmitted	Status
Brent Smith		bsmith@co.kinney.tx.us	12/14/2021 4:09:45 PM	SENT
Tonya SpethAhlSchwede		tsa@452da.net	12/14/2021 4:09:45 PM	SENT
Laurie K.English		lke112da@gmail.com	12/14/2021 4:09:45 PM	SENT

Associated Case Party: Kitty Schild

Name	BarNumber	Email	TimestampSubmitted	Status
Kitty Schild		kschild@elp.rr.com	12/14/2021 4:09:45 PM	SENT

Associated Case Party: Vivian Torres

Name	BarNumber	Email	TimestampSubmitted	Status
Vivian Torres		judgetorres@schuchartlaw.com	12/14/2021 4:09:45 PM	SENT

Associated Case Party: GenieJ.Wright

Name	BarNumber	Email	TimestampSubmitted	Status
Genie J.Wright		geniejwright@gmail.com	12/14/2021 4:09:45 PM	SENT