

DR 1618

CAUSE NOS. C-213-007907-0836979-A; C-213-007908-0836985-A

EX PARTE

BARTON RAY GAINES

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§  
§

IN THE 213<sup>TH</sup> JUDICIAL

DISTRICT COURT

TARRANT COUNTY, TEXAS

**AFFIDAVIT OF CHEYENNE S. MINICK**

STATE OF TEXAS

COUNTY OF TARRANT

§  
§  
§

**FILED**  
THOMAS A. WILDER DIST. CLERK  
TARRANT COUNTY TEXAS

JAN 08 2011

TIME 3:04  
BY [Signature] DEPUTY

BEFORE ME, the undersigned authority, personally appeared **CHEYENNE S. MINICK**, who after being duly sworn by me, stated under oath as follows:

"My name is Cheyenne S. Minick. I am over the age of 18, have never been convicted of a felony or a crime involving moral turpitude and am otherwise fully competent to make this Affidavit. Each and every statement contained in this Affidavit is true and correct and based on my personal knowledge.

I am licensed to practice law in the State of Texas and have been so licensed since November 1997. I am also licensed to practice in the United States Court of Appeals for the Fifth Circuit, and the United States District Court for the Northern District of Texas.

I entered the private practice of law in November 1997, and, since that time, my practice has been the representation of individuals in criminal investigations, trials, and appeals in State and Federal Court.

I was asked by Greg Westfall to assist him in the above referenced cases. My job was to sit second chair and assist in whatever duties, both prior to and during trial, that were required. I did this job on a voluntary basis for Mr. Westfall.

I am providing this Affidavit in response to an Application for Writ of

Habeas Corpus filed on Mr. Gaines' behalf on November 1, 2006. In preparation for drafting this Affidavit, I have reviewed the Application for Writ of Habeas Corpus, Mr. Gaines' affidavit, and portions of my file.

Upon reviewing the Application for Writ of Habeas Corpus, it appears that Mr. Gaines claims that Mr. Westfall and I rendered ineffective assistance of counsel in several areas. Primarily, the claims pertain to the conduct of Mr. Westfall. I will address the allegations regarding my conduct.

Prior to trial, Mr. Westfall provided me with a trial notebook. That notebook contained the discovery from the Tarrant County District Attorney's Office, as well as all records obtained in this case pertaining to research, subpoenas issued, and notes of interviews with witnesses.

Prior to trial, Mr. Westfall and myself had several meetings with the family of Barton Gaines. The facts of the case, trial strategy and evidence that we could produce, at trial, were discussed extensively with the family, as well as, with Mr. Gaines himself. Both Mr. Westfall and myself answered questions from the family and Mr. Gaines regarding the case. The family, as well as the client, were well informed as to all matters in the case including the punishment range and possible outcomes.

What is this, some kind of a form letter or something?

The decision for Mr. Gaines to plea guilty was made with full knowledge of the possible consequences, and with the permission of not only Mr. Gaines, but with the consent of his family as well. Neither did Mr. Westfall or myself ever promise Mr. Gaines as to any specific result. In all the time, both prior to trial and during trial, neither did Mr. Westfall or myself ever promise to the family, or Mr. Gaines, that Mr. Gaines would receive probation.

Although he understandable wants to, he can't speak for his friend. Only himself. He's not Mr. Westfall, nor does he know all what Westfall told me

When the plea was entered by Mr. Gaines I did not direct the entry of his plea with the nod of my head in any direction.

The record may reflect differently, but I did not conduct Voir Dire in this case. I only assisted in the process. Further, I did not present the opening statement for this case.

I directed the presentation of Paula Adams-Thomas in this case. Prior to the presentation of her testimony I went over the elements of the testimony that she

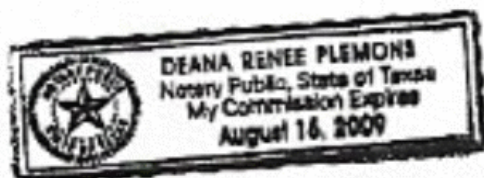


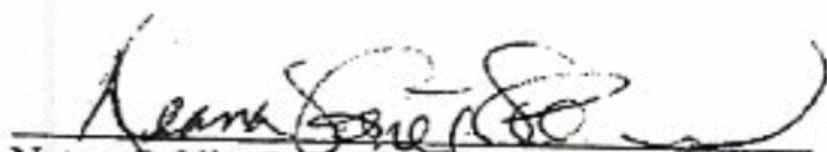
was going to provide, and she was well aware of the areas which were to be covered when she testified. These matters were discussed prior to the time of trial and her testimony. I did give her directions as to where to appear and when, as I do with any witness that I will present in a case.

Further Affiant saith not."

  
CHEYENNE S. MINICK

SWORN TO AND SUBSCRIBED before me on this 5th day of January,  
2007.



  
Notary Public, State of Texas  
My Commission Expires: 8/15/09