

Tim Curry Criminal Justice Center
Attn: Tarrant Co Dist Clerk: Tom Wilder
401 W. Belknap, Third Floor
Fort Worth, TX 76196
817-884-1342
webmaster@tarrantcounty.com

April 11, 2021

Re: Plaintiff's Original Petition For Bill Of Review & Request For Disclosure & Deposition
Case Nos.C-213-7907-0836979-A & C-213-7908-0836985-A

Dear Clerk,

Please find enclosed a copy of

1. Request for Submission & Hearing.
2. Proposed Order on Plaintiff's Bill of Review.
3. Notice of Hearing on Gaines's Bill of Review.

Sincerely,

BARTON R. GAINES, Pro Se
244 Siesta Court
Granbury, Texas 76048
Tel.: 682-500-2753
Email bartongaines@gmail.com

Assist. Crim. Dist. Atty.
Andrea Jacobs
SBOT: 24037596
401 West Belknap Street
Ft. Worth, Texas 76196-0201
Phone (817) 884-1400
Facsimile: (817) 884-1672
ccappellatealerts@tarrantcountytx.gov

April 11, 2021

Re: Plaintiff's Original Petition For Bill Of Review & Request For Disclosure & Deposition
Case Nos.C-213-7907-0836979-A & C-213-7908-0836985-A

Dear Atty.,

Please find enclosed a copy of

1. Request for Submission & Hearing.
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244 Siesta Court
Granbury, Texas 76048
Tel.: 682-500-2753
Email bartongaines@gmail.com

BARTON R. GAINES,	§	IN THE DISTRICT COURT
Plaintiff,	§	
v.	§	TARRANT COUNTY, TEXAS
State,	§	
Defendant.	§	213TH JUDICIAL DISTRICT

REQUEST FOR SUBMISSION & HEARING

On March 25, 2021, Plaintiff Gaines filed a Bill of Review to reopen the above styled and numbered cause in the aforesaid court,¹ with documents in support therefor. Attached hereto and herewith, please find Plaintiff Gaines's:

1. In hand Request for the Tarrant County District Clerk, Thomas A. Wilder, or his designee, to bring this motion to the attention of the aforesaid trial court, i.e., submit, the same thereto.²
2. Proposed Order on Plaintiff's Bill of Review.³
3. And Notice of Submission and Hearing on Gaines's Bill of Review (the date and time Plaintiff Gaines left blank for

¹ Tarrant County Local Rules, Rule 1.03: Assignment of Causes and Transfers, (d) Every suit or proceeding in the nature of a **bill of review** or otherwise, seeking to attack, avoid or set aside any judgment, order or decree shall be filed in and assigned to the Court in which such judgment, order or decree was rendered (emphasis in orig. & added).

² Tarrant County Local Rules, Rule 1.06: Filing Papers, (a) All pleadings, motions, notices, and any other paper, document or thing made a part of the record in any civil, family law or criminal case **shall be filed with the Clerk.** (b) All briefs, proposed orders and judgments **shall be presented to the Court Coordinator** (emphasis in orig. & added).

³ Tarrant County Local Rules, Rule 1.06: Filing Papers, (d) All filed motions seeking affirmative relief from the court will either be **accompanied by an Order** in such form as to grant or deny the motion, or said Order will be brought to the hearing on the motion (emphasis in orig. & added).

the court to input since Plaintiff Gaines cannot tell the court when and how to schedule the hearing)^{4,5}

Plaintiff Gaines cannot file a writ of mandamus with the Second District Court of Appeals for an order to the aforesaid to rule hereto⁶ unless Plaintiff Gaines himself abides by the rules.⁷

⁴ In re Lawrence Trinidad CHAVEZ, Relator, No. 07-01-0368-CV., 62 S.W.3d 225, 229 (Ct. Att.--Amarillo. 2001)().

⁵ Tex. R. Civ. P. 21, Rule 21 - Filing and Serving Pleadings and Motions, (b) **Service of Notice of Hearing**. An application to the court for an order and **notice of any hearing** thereon, not presented during a hearing or trial, must be served upon all other parties not less than three days before the time specified for the hearing, unless otherwise provided by these rules or shortened by the court (emphasis in orig. & added).

⁶ A district ... court judge shall:

1. **diligently discharge the administrative responsibilities of the office;**
2. rule on a case within **three months** after the case is taken under advisement;
3. if an election contest or a suit for the removal of a local official is filed in his court, request the presiding judge to assign another judge who is not a resident of the county to dispose of the suit;
4. on motion by either party in a **disciplinary action against an attorney**, request the presiding judge to assign another judge who is not a resident of the administrative region where the action is pending to dispose of the case;
5. request the presiding judge to assign another judge of the administrative region to hear a motion relating to the recusal or disqualification of the judge from a case pending in his court; and
6. to the extent consistent with safeguarding the rights of litigants to the just processing of their causes, utilize methods to **expedite the disposition of cases on the docket** of the court, including
 - a. adherence to firm trial dates with strict continuance policies;
 - b. the use of telephone or mail in lieu of personal appearance by attorneys for motion hearings, pretrial conferences, scheduling and the setting of trial dates;
 - c. pretrial conferences to encourage settlements and to narrow trial issues;
 - d. taxation of costs and imposition of other sanctions authorized by the Rules of Civil Procedure against attorneys or parties filing frivolous motions or pleadings or abusing discovery procedures; and
 - e. local rules, consistently applied, to regulate docketing procedures and timely pleadings, discovery and motions.

Tex. R. Jud. Admin., R. 7, (emphasis in orig. & added).

⁷ In re Lawrence Trinidad CHAVEZ, Relator, No. 07-01-0368-CV., 62 S.W.3d 225 (Ct. Att.--Amarillo. 2001)

Respectfully submitted,

By: _____
BARTON R. GAINES, Pro Se
244 Siesta Court
Granbury, Texas 76048
Tel.: 682-500-7326
Email bartongaines@gmail.com

CERTIFICATE OF SERVICE

I certify that on _____, I served a copy of Bill of Review on the party listed below by U.S. Mail:

Assist. Crim. Dist. Atty.
Andrea Jacobs
SBOT: 24037596
401 West Belknap Street
Ft. Worth, Texas 76196-0201
Phone (817) 884-1400
Facsimile: (817) 884-1672
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BARTON R. GAINES, Pro Se

BARTON R. GAINES,	§	IN THE DISTRICT COURT
Plaintiff,	§	
v.	§	TARRANT COUNTY, TEXAS
State,	§	
Defendant.	§	213TH JUDICIAL DISTRICT

ORDER ON PLAINTIFF'S BILL OF REVIEW

After considering Plaintiff's Bill of Exception, and the response, the Court

DENIES the motion.

GRANTS the motion and reopens the case.

SIGNED on _____, 2021.

PRESIDING JUDGE

Case Nos.C-213-7907-0836979-A & C-213-7908-0836985-A

BARTON R. GAINES,	§	IN THE DISTRICT COURT
Plaintiff,	§	
v.	§	TARRANT COUNTY, TEXAS
State,	§	
Defendant.	§	213TH JUDICIAL DISTRICT

Notice of Hearing on Gaines's Bill of Review

The attached Bill of Review has been filed and will be
submniutted to the Court for consideration at a hearing on (date):
___/___/2021, at (time): ___/___/2021.

Respectfully submitted,

By: _____
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Granbury, Texas 76048
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Barton R. Gaines

EX PARTE	§	IN THE DISTRICT COURT
	§	TARRANT COUNTY, TEXAS
BARTON R. GAINES	§	213TH JUDICIAL DISTRICT

Plaintiff's Deposition On Written Questions For Charles Bleil

(1. The day aft. Bart's yr. elapsed)

Was it a concerted effort or just sheer coincidence that you signed respondents, Baxter Morgan's, motion to respond to Bart's 2254(b, c) technicalities on the day after Bart's year elapsed under the ADEPA?

(2. Sixty-Seven or 47-days; 5/4/06 or 5/24/06)

Were you trying to shave off some of the time it took the Dallas division to transfer Bart's 2254 to the Fort Worth division when you wrote that Bart's 2254 attorney, Mehdi Michael Mowla, filed it on 5-24-06 rather than when it really did on 5-4-06, or was it simply just a mistake on your part? It took a total of 67 days to transfer it opposed to the 47 days you otherwise made it appear.

(3. Average turnaround)

What was the average turnaround on a district court response on technicalities like failure to exhaust State Court remedies? What's your source? Will you include them in your response?

EX PARTE	§	IN THE DISTRICT COURT
	§	TARRANT COUNTY, TEXAS
BARTON R. GAINES	§	213TH JUDICIAL DISTRICT

Plaintiff's Deposition On Written Questions For Robert K. Gill

(1. Concerted effort; Time Barred & response)

Was it a concerted effort or just sheer coincidence that you ordered petitioner's, Bart's, State trial attorneys, Greg Westfall and Cheyenne Minick, to respond to his, Bart's, 11.07s on the same day his, Bart's, 2254 Judge, Terry R. Means, dismissed Bart's 2254 without prejudice, except as to any tolling provisions under the AEDPA.

(2. Reprimanded / Resigned)

Was it just sheer coincidence that you just up and decided to leave the bench after Bart's 11.07s were filed, but before they ruled on, or was there some other reason, and if some other reason, what was it? That is, where you reprimanded for conspiring with Westfall and Minick for failing to charge the jury on the law applicable to his case?

(3. Criminal Responsibility charge)

Why didn't you charge the jury on the law applicable to Bart's punishment case, or why didn't you correct his trial attorneys' misconception on the law with regards to the presumption of innocence on a punishment case respecting the unadjudicated extraneous crimes respondent accused Bart of at sentencing?

(4. Whitney Whitman)

Why did you appoint Whitney Whitman to represent Bart on his direct appeal? He was a civil lawyer. And why does his name appear all over Bart's direct appeal records in place of Paul Francis? He was appointed between Reagan Wynn, whom Westfall and Minnick requested you appoint Bart, and Paul Francis, whom you ultimately appointed Bart to represent him on his direct appeal. Was it to skew, confuse, or hedge Francis from scrutiny?

EX PARTE	§	IN THE DISTRICT COURT
	§	TARRANT COUNTY, TEXAS
BARTON R. GAINES	§	213TH JUDICIAL DISTRICT

Plaintiff's Deposition On Written Questions For Terry R. Means

(1. Means & Gill; adoption & order)

Was it a concerted effort or sheer coincidence that you adopted the magistrate judges, Charles Bleil's findings, conclusions, and recommendations dismissing Bart's 2254 on the same day his State trial judge, Robert R. Gill, ordered his, Bart's, trial attorneys, Greg Westfall and Cheyenne Minick, to respond to his State habeas application?

(2. Certiorari & 11.07s; 2007)

Was it unclear at this time whether Bart had an extra ninety days added to his year after his 11.07s were denied to seek a writ of certiorari with the Supreme Court of the United States like he did to seek a writ of certiorari with the Supreme Court of the United States after the high state court denied his direct appeal, or was it just sheer coincidence that you waited until the 91st day after Bart's year elapsed under the AEDPA to adopt Bleil's findings, conclusions, and recommendations dismissing his, Bart's, 2254 without prejudice, but for any tolling provisions?

EX PARTE	§	IN THE DISTRICT COURT
	§	TARRANT COUNTY, TEXAS
BARTON R. GAINES	§	213TH JUDICIAL DISTRICT

Plaintiff's Deposition On Written Questions For Baxter Morgan

(1. Concerted effort; Timebar)

Was it a concerted effort or just sheer coincidence that you filed a motion to respond to petitioners, Bart's, Federal habeas council's, M. Michael Mowla's, 2254 until after Bart's year elapsed?

(2. Scheduling conflict)

You wrote that you and Mowla conferred a scheduling conflict which was why you wanted to respond after Bart's year ran out under the AEDPA. What was the scheduling conflict, and what was so hard about responding to a technicality under 2254(b, c)?

EX PARTE	§	IN THE DISTRICT COURT
	§	TARRANT COUNTY, TEXAS
BARTON R. GAINES	§	213TH JUDICIAL DISTRICT

Plaintiff's Deposition On Written Questions For Mehdi Michael Mowla

(1. Exhaustion)

Why didn't you exhaust Bart's State Court remedies before filing his first 2254?

(2. Concurrent filings)

Did you tell Bart you were filing his 11.07 concurrently with his 2254?

(3. Run out the clock)

Did you tell Bart that you were letting respondent, Baxter Morgan, respond to your technicalities, failure to exhaust State Court remedies, after Bart's year elapsed under the ADEPA?

(4. Exhausted claims)

Why didn't you press forward with Bart's exhausted claims when you got cited for a 2254(b, c) violation / mixed petition?

(5. Appeal Means adoptions)

Why didn't you appeal the district judges, Terry R Means, order adopting the magistrate judges, Charles Bleil's findings, conclusions, and recommendations when he, Means, adopted them?

(6. Rtn.; witness intimidation claims)

When you returned to Federal court and filed Bart's 2254 after his 11.07s were denied, why didn't you press forward on the witness intimidation claim you unearthed, that is, since it was timely under 2244(d)(1)?

(7. Tell Bart about the F, C, & R?)

Why didn't you tell Bart that Means adopted Bleil's findings, conclusions, and recommendations, that is, why did you rely on Bart's mother and grandmother to tell him?

(8. Documents including in Westfall's/Minick's files?)

Were

1. Doc 5: New: Charla's Warrant);
2. Doc 6: New: Smith's Mvd Inquiry (2-22-02);

3. Doc 12: New: Unresponsive Document (mike's Photo Spread Results On Jason);
4. Doc 41: New: Hcso's Incident Report (2-23-02);
5. Doc 42: New: Calls For Service Sheet (2-23-02);
6. Doc 43: New: Evidence Collection List (2-23-02);
7. Doc 44: New: Greg's Statement (2-23-02);
8. Doc 45: New: Stephen's Statement (2-23-02);
9. Doc 46; New: Jheen's Statement (2-23-02);
10. Doc 47; New: Joel's Statement (2-23-02);
11. Doc 48; New: Rick's Statement (2-23-02);
12. Doc 49; New: Car Repair Bill (4-3-02);
13. Doc 50; New: Deleon's & Hubbard's Inv. Rpt. (11-26-02);
14. Doc 51; New: Greg's Photo Spread Results (me);
15. Doc 52; New: Jheen's Photo Spread Results (me);
16. Doc 53; New: Stephen's Photo Spread Results (me);
17. Doc 55; New: Info On Jj's Hideaway;
18. Doc 58; New: Charla's Letter To Goin;
19. Doc 60; New: Charla's Photo Of My +truck;
20. Doc 61; New: Charla's Photo Of Brett's Sks;
21. Doc 62; New: Charla's Commendation Letter To Hanlon;
22. Doc 64; New: Hanlon's Criminal/disciplinary Records; And
23. Doc 65: New: Radio Call Master Sheet New: (2-23-02) / Unresponsive Document;

included in your case file on Bart?¹

(9. Send; banking transaction)

Did Bart send you a copy of his banking transaction from 2-8-02 in an attempt to prove to you that Westfall's timeline was off a week?²

(10. Your Index?)

Is the index included in the aforementioned appendix a copy of the index in your case file on Bart?³

(11. Tiffani's timeline?)

Did Bart try to point out to you his girlfriend, Tiffani, testified she and he, Bart, broke up on February 2nd, 2002, that she saw him, Bart, the following weekend at church on Sunday, February 10th, 2002, and that she saw him, Bart, again the weekend after that at her, Tiffani's, mom's, Dannyta's, on Saturday, February 16th, 2002?

(12. Discrepancies; Paula & Tiffani)

Did Bart point out to you where Tiffani's aunt said she saw Bart at church with Tiffani the weekend before he, Bart, was arrested, and where Tiffani said it was the second weekend before he, Bart, was arrested?

¹ The documents are included in appendix 3 attached to petitioner's affidavit attached to his memorandum in support of his motion for relief from the judgment.

² See document 1 included in appendix 4 attached to the same.

³ See document 2 included in appendix 4 attached to the same.

(13. Westfall & Minick; facts & law)

Why didn't you argue Westfall and Minick performed deficiently because they didn't have a firm command of the facts, that is, the timeline, and law, which required respondent to prove, and an impartially selected jury to believe beyond a reasonable doubt that Bart could be held potentially criminally responsible for shooting Rick before they could consider the same in sentencing Bart for his offense of conviction?

(14. Francis & Gill; the law)

Why didn't you argue Bart's appeal lawyer, Paul Francis, was ineffective for failing to argue Gill failed to charge the jury on the law applicable to the case, namely, Bart's potential criminal responsibility for shooting Rick?

(15. Which Daniel @ Bart's moms?)

Did you realize the Daniel Bart's mother was saying was with Bart at her house before he, Bart, was arrested was not the same Daniel involved in the offense Bart was arrested and convicted of?

(16. Daniel & Bart; Tiffani's moms?)

Did you realize the night Daniel and Bart went to Tiffani's moms was not the same night Rick was shot, that is, the night Daniel and Bart went to Tiffani's moms was the weekend before the weekend Rick was shot?

(17. Running Bart's clock out; Dallas Div.?)

Why did you file in the Dallas division? That is, you weren't trying to shave off a few extra days on Bart's ADEPA clock, were you? Did you not know the mailbox rule didn't apply to prisoner's represented by counsel?

(18. Abandoned?)

Did Bart write and tell you that he read a case law that he didn't have an extra 90 days to file a writ of certiorari and, if yes, did you write Bart back that you thought his grandmother and mother told him, Bart, that you didn't appeal his case to the Fifth Circuit and that you would have charged them \$5,000 to file it, the appeal, but that they, his mother and grandmother, didn't want to pay it, so you didn't appeal it and that there was nothing more you could do?

(19. TDCJ lawsuit)

Did you file a lawsuit against the Texas Department of Criminal Justice for failing to protect Bart against an attack he sustained from another inmate?

(20. \$5,000 or quitting?)

Did you give Bart two weeks to respond with \$5,000 before you withdrew from the lawsuit against the Texas Department of Criminal Justice?

(21. Couldn't afford to drive, etc.?)

Did you tell Bart that it (the case) was fixing to go to trial and that you couldn't afford to drive halfway across Texas to attend trial for 5 days for a case without further compensation, that is, the Texas Department of Criminal Justice lawsuit?

(22. Charge error)

Was the reason why you didn't argue the charge and timeline errors because you didn't want to give defendant the opportunity to cross-examine Plaintiff and Daniel Aranda and gather evidence therefrom and, if not, then why didn't you advance the timeline and charge errors?