

CLERK'S RECORD

VOLUME 1 of 1

Trial Court Cause No. **0836985A**

In the **213TH DISTRICT COURT**
of Tarrant County, Texas
Hon. **ROBERT K. GILL**, Presiding Judge

BARTON RAY GAINES, APPELLANT

VS .

THE STATE OF TEXAS

Appealed to the Court of Appeals
for the 2nd Supreme Judicial District of Texas
at Fort Worth, Texas

ATTORNEY FOR THE APPELLANT

WHITNEY WIEDEMAN, APPT.
P. O. BOX 9412
FORT WORTH, TEXAS 76147
PHONE: 817-247-4779
FAX: N/A
SBOT: 00797662
Attorney for BARTON RAY GAINES, Appellant

Delivered to the Court of Appeals for the 2nd Supreme
Judicial District of Texas at Fort Worth, Texas, on the

11th day of April 2003

THOMAS A. WILDER, DISTRICT CLERK,
TARRANT COUNTY, FORT WORTH, TEXAS

Nancy Gilliland

NANCY GILLILAND

Deputy District Clerk

(Court of Appeals)

Cause No. _____

Filed in the Court of Appeals for the 2nd Supreme Judicial
District of Texas, at Fort Worth, Texas, this

_____ day of _____,

STEPHANIE LAVAKE, Clerk

By _____, Deputy

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THE STATE OF TEXAS §
COUNTY OF TARRANT §

TRIAL COURT CAUSE NO. 0836985A

THE STATE OF TEXAS § IN THE 213th District Court

VS. §

BARTON RAY GAINES § **TARRANT COUNTY, TEXAS**

Presentment Of The Indictment

APRIL 25, 2002

On this day came the Grand Jury, into open Court, in a body, a quorum there of being present, and through their Foreman, presented to the Judge of the **213th District Court** the following Bills of Indictment, and stated to the Court that at least nine Grand Jurors had concurred in the return of each of such Bills of Indictment.

Said Bills of Indictment were, by the Judge of the Court, delivered to the Clerk, and Ordered filed and docketed, and all necessary process issued thereon.

TRIAL COURT CAUSE NO. **0836985A**

THE STATE OF TEXAS

VS.

BARTON RAY GAINES

CHARGE:

AGGRAVATED ROBBERY WITH A DEADLY WEAPON, TO-WIT: A FIREARM. CAPITAL MURDER-ATTEMPT

100,000
NAME .RTON RAY GAINES
ADDRESS 732 DANIELS
CROWLEY TX 76036
RACEW SEX M AGE 19 DOB 10-25-82
CASE NO. 0836985 FILED: (DATE) 03-06-02
PC HAS BEEN DETERMINED
TRANSFER: COURT DATE

& AGG ROBB-DW
OFFENSE CAPITAL MURDER-ATTEMPT
DATE 02-21-02
I. P. MICHAEL WILLIAMS
C. C. 0836650 0836651 0836979
AGENCY FORT WORTH PD
OFFENSE NO. 02132262 COURT D213

INDICTMENT NO. 0836985 A

IN THE NAME AND BY AUTHORITY OF THE STATE OF TEXAS:

THE GRAND JURORS OF TARRANT COUNTY, TEXAS, duly elected, tried, empaneled,
sworn and charged to inquire of offenses committed in Tarrant County, in the
State of Texas, upon their oaths do present in and to the * * * * *

213th DISTRICT COURT

of said County that * *

BARTON RAY GAINES

hereinafter called Defendant, in the County of

Tarrant and State aforesaid, on or about the 21ST day of FEBRUARY 2002, did

THEN AND THERE, WITH THE SPECIFIC INTENT TO COMMIT THE OFFENSE OF CAPITAL
MURDER OF MICHAEL WILLIAMS, INTENTIONALLY SHOOT MICHAEL WILLIAMS WITH A DEADLY
WEAPON, TO-WIT: A FIREARM, DURING THE COURSE OF OR ATTEMPTING TO COMMIT
ROBBERY, WHICH AMOUNTED TO MORE THAN MERE PREPARATION THAT TENDED BUT FAILED TO
EFFECT THE COMMISSION OF THE OFFENSE INTENDED,

COUNT TWO: AND IT IS FURTHER PRESENTED IN AND TO SAID COURT THAT THE SAID
DEFENDANT IN THE COUNTY OF TARRANT AND STATE AFORESAID ON OR ABOUT THE 21ST DAY
OF FEBRUARY, 2002, DID THEN AND THERE INTENTIONALLY OR KNOWINGLY, WHILE IN THE
COURSE OF COMMITTING THEFT OF PROPERTY, THREATEN OR PLACE MICHAEL WILLIAMS IN
FEAR OF IMMINENT BODILY INJURY OR DEATH, AND THE DEFENDANT DID THEN AND THERE
USE OR EXHIBIT A DEADLY WEAPON, TO-WIT: A FIREARM,

AGAINST THE PEACE AND DIGNITY OF THE STATE.

Imi Curry

Criminal District Attorney
INDICTMENT - ORIGINAL

Philip C. Bell

Foreman of the Grand Jury

Filed (Clerk's use only)

FILED

THOMAS A. WILDER, DIST. CLERK
TARRANT COUNTY, TEXAS

APR 25 2002

Time 12:30p
By *B* Deputy

DETAINEE

(CRIMINAL) DISTRICT COURT

TRANSFERRED TO

State's Attorney ROBERT FORAN, MICHELE KARTMANN

On Probation Revocation

Defendant's Attorney GREG WESTFALL, CHEYENNE MINICK

On Probation Revocation

Surety

Appeals Attorney REAGAN WYNN appt'd.

MAR 06 2002

COMPLAINT FILED. BOND SET AT \$ 100,000

3-7-02 Haver appointed CounselAPR 9 5 2002 INDICTMENT VOL. 19 PAGE 23APR 25 2002 State's Announcement of Ready Filed

JUN 2 4 2002 TRIAL DOCKET CALL

8-7-02 Pro Se Application for Writ of Habeas Corpus filed8-19-02 State's Effect Writ of Habeas Corpus8-22-02 Motion for Continuance filed + granted.

SEP 0 9 2002 TRIAL DOCKET CALL

OCT 1 1 2002 STATE'S MOTION (A) FILED

11-13-02 State's Notice to Introduce Evidence of

CRIMINAL DOCKET

DISPOSITION OF CASE:

Indexed

Right Thumb Print



1.

2.

3.

4.

5.

6.

TRS 39 DL

S

DPS

A

1.35 years IDTDCJ+ \$10,000.00

11-13-02 Other Crimes, Wrongs or Acts Filed

DEC - 5 2002

Brady vs. Maryland Compliance Notification filed

DEC - 8 2002

Supplemental Notice of Extradition Offenses filed

DEC - 9 2002

TRIAL DOCKET CALL

Writ of Attachment issued for Alicia

Gonzales

DEFENDANT'S MOTION FOR ASSESSMENT OF

PUNISHMENT (BY JURY) FILED

DEFENDANT ARRAIGNED, DEFENDANT ENTERED

HIS PLEA OF GUILTY TO COUNT TWO TO THE CHARGE

JURY CALLED AND SEATED.

JURY SWORN, WRIT OF ATTACHMENT FOR

AFTAB AHMED ISSUED

- OVER -

Thomas A. Wilder

DISTRICT CLERK

TARRANT COUNTY, TEXAS

THESE ARE CRIMINAL COURT PAPERS AND MUST NOT BE REMOVED

CRIMINAL DOCKET

12-10-02 (continued)	DEFENDANT ENTERED HIS PLEA OF "GUILTY" TO COUNT TWO TO THE JURY. TESTIMONY BEGAN.
12-12-02	COURT'S CHARGE FILED, JURY VERDICT: GUILTY OF AGGRAVATED ROBBERY WITH A DEADLY WEAPON, TO-WIT: A FIREARM; -35- YEARS IN THE INSTITUTIONAL DIVISION OF THE TEXAS DEPARTMENT OF CRIMINAL JUSTICE PLUS A \$10,000.00 FINE, DEFENDANT SENTENCED TO -35- YEARS IN THE INSTITUTIONAL DIVISION OF THE TEXAS DEPARTMENT OF CRIMINAL JUSTICE, PLUS A \$10,000.00 FINE, TO BE CREDITED WITH TIME SPENT IN JAIL. JUDGMENT. DEFENDANT ADVISED OF HIS RIGHT OF APPEAL. WRITTEN NOTICE OF APPEAL FILED. MOTION FOR FREE REPORTER'S RECORD AND AFFIDAVIT OF INABILITY TO PAY FOR COUNSEL AND REPORTER'S RECORD FILED).
12-12-02	ORDER APPOINTING COUNSEL, FOR THE APPEAL AND ORDER FOR COURT REPORTER TO PREPARE REPORTER'S RECORD
	<i>Alfred M. Hill</i> Presiding Judge, 213th District Court
12-16-02	Letter to appointed attorney w/ Enclosures
12-17-02	Copy of Judgment, Notice of Appeal and Attorney Appointment Letter Sent to State and County of Appeals
1-3-03	Amended Designation of the Record on Appeal filed.
* 12-20-02	Designation of the Record on Appeals
* 12-20-02	Motion For New Trial filed
1-9-03	Copy of Motion For New Trial Sent to State and County of Appeals
3-26-03	Attachment Order filed
3-26-03	Bench Warrant Issued
4-10-03	Attachment Hearing
4-10-03	Order Appointing Substitute Counsel (Whitney Woodman) for the Appeal
4-10-03	Defendant to be returned to IDDCS
4-10-03	Letter to Attorney with Attachments Copy of Letter Sent to Defendant

D213
Case # 6836985

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

MAR 07 2002

DEFENDANT'S INFORMATION FORM

Filing Agency Name FWPD Filing Agency Code 8AM
Deputy AC

Defendant LAINES, BARTON RAY JR CID# 0579723

Sex M Race W SSN [REDACTED] DOB 10-25-1982

Home Address 5908 TEXAS TRL GRANDBURY TX 76048 Phone 817-253-9503

Charged Offense	Level of Offense	Date of Offense	Case #
<u>CRIMINAL ATTEMPT CAPITAL MURDER</u>	<u>1ST FEL.</u>	<u>02-24-2002</u>	<u>02132262</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Defendant's primary language, if other than English _____

Defendant's special circumstances _____

Bondsman _____ Phone _____

Co-defendant _____ CID # _____

Sex _____ Race _____ SSN _____ DOB _____

Co-defendant _____ CID # _____

Sex _____ Race _____ SSN _____ DOB _____

Defendant's name Gaines, Barton Ray Jr.

Sex M Race W SSN [REDACTED]

DOB 10-25-82

CID no. _____

Arrest no. _____

Service no. 02 132262

Warrant no. _____

WAIVER OF APPOINTED COUNSEL

I have been told by the magistrate that I have the right to request the appointment of a lawyer. I understood the warnings given to me by the magistrate. I wish to waive my right to an appointed attorney at this time. I do not want the magistrate to appoint an attorney for me at this time.

Barton Ray Jr.
(Defendant)

REQUEST FOR APPOINTED COUNSEL

I have been advised by the court of my right to representation by counsel in the trial of the charge pending against me. I certify that I am without means to employ counsel of my own choosing and I hereby request the court to appoint counsel for me.

(Defendant)

ORDER SETTING CONDITIONS OF BOND

IT IS THE ORDER OF THE COURT that if you receive an appointed attorney and make bond, you shall comply with the following additional terms and conditions of bond:

1. You shall keep all appointments with your attorney.
2. You shall attend all court settings.
3. You shall notify your attorney or your attorney's office of any changes in your residence address, business address or telephone numbers within 24 hours of such change.

Any violation of these conditions may result in your bond being held insufficient and you being returned to custody.

Judge/Magistrate

I understand these conditions of my bond.

Defendant

Date

NO. 6836985

THE STATE OF TEXAS

VS.

BARTON RAY GAINES

203K
IN THE CRIMINAL DISTRICT

COURT NUMBER _____

TARRANT COUNTY, TEXAS

STATE'S ANNOUNCEMENT OF READY

TO THE HONORABLE JUDGE OF SAID COURT:

*NOW COMES the State of Texas in the above styled and numbered cause and
announces to the Court that the State is ready for trial in this case.*

Respectfully submitted,

**TIM CURRY
CRIMINAL DISTRICT ATTORNEY
TARRANT COUNTY, TEXAS**

By: _____

[Signature]
Assistant Criminal District Attorney

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

APR 25 2002

Time 12:30
By [Signature] Deputy

Writ to Serve Indictment

To Any Peace Officer of the State of Texas – GREETINGS:

YOU ARE HEREBY COMMANDED to immediately deliver to

BARTON RAY GAINES

the defendant, in person, in the case of the STATE OF TEXAS vs. 620

BARTON RAY GAINES

No. 0836985A

pending in the Criminal District Courts of Tarrant County,

the accompanying certified copy of Indictment in said cause.

HEREIN FAIL NOT, and make due return hereof FORTHWITH.

WITNESS my signature and official seal on this the

25TH day of

APRIL

20 02

THOMAS A. WILDER Clerk, District Courts, Tarrant County, Texas

By

Helma Windom

, Deputy

OFFICER'S RETURN:

Came to hand the same day issued and executed by me

on the 25th day of April 20 02, by delivering toBarton Ray Gaines the within named

Defendant in person, the within named certified copy of indictment in said cause.

Returned on this

27th

day of

April

20

02FILED
TARRANT COUNTY

2002 APR 29 PM 5:53

THOMAS A. WILDER
DISTRICT CLERKDee Anderson

, Sheriff

By

Jefferson 6898

, Deputy

AUG - 7 2002

Time 12:20 PM
By RW Deputy

0836979
CAUSE No. 0836985

BARTON RAY GAINES JR.

IN THE CRIMINAL

VS.

DISTRICT COURT NO. 213

THE STATE OF TEXAS

TARRANT COUNTY, TEXAS

APPLICATION FOR WRIT OF HABEAS CORPUS

TO THE HONORABLE JUDGE SAID COURT:

Comes now, BARTON RAY GAINES JR., PETITIONER IN
THE ABOVE ENTITLED AND NUMBERED CAUSE AND HEREBY PETITIONS
THIS COURT PURSUANT TO THE U.S. CONSTITUTION, TEXAS
CONSTITUTION, AND TEXAS CODE OF CRIMINAL PROCEDURE ARTICLE
17.151⁽³⁾, TO BE RELEASED ON PERSONAL BOND OR \$500 BAIL
REDUCTION PENDING DISPOSITION OF THIS CAUSE. IN SUPPORT
OF THIS APPLICATION, THE PETITIONER WOULD SHOW THE
COURT AS FOLLOWS:

I.

THE PETITIONER IS CHARGED WITH THE OFFENSE OF ATTEMPTED
CAPITAL MURDER PENDING IN THIS COURT.

THE PETITIONER HAS BEEN UNDER CONTINUOUS INCARCERATION
SINCE THE FEB. DAY OF 23 2002.

PAGE 1 OF 3

Presented to Court

file -
per count

II.

MEMORANDUM OF LAW IN SUPPORT OF THIS PETITION

THE U.S. AND TEXAS CONSTITUTION PROVIDES A SPECIFIC RIGHT TO BAIL PENDING TRIAL IN ALL CASES. THIS COMPORTS THAT LIBERTY IS THE NORM, THEREFORE THE FINANCIAL INABILITY TO POST BAIL DOES NOT DIMINISH THE RIGHT TO LIBERTY PENDING DISPOSITION OF THIS CASE.

TEXAS CODE OF CRIMINAL PROCEDURE ART. 17.151^{§1} STATES THAT, "AN ACCUSED MUST BE RELEASED, EITHER ON PERSONAL BOND OR BY REDUCTION OF BAIL, IF THE STATE IS NOT READY FOR TRIAL OF THE PENDING ACCUSATION WITHIN THE FOLLOWING NUMBER OF DAYS: NINETY DAYS FROM THE COMMENCEMENT OF DETENTION IF THE OFFENSE IS A FELONY."

NO STATUTORY PROVISIONS FOR DENYING BOND ARE APPLICABLE IN THIS CASE. HOWEVER, ART. 17.151.51 IS MANDATORY AND PETITIONER MUST BE RELEASED.

WHEREFORE ALL PREMISES CONSIDERED THE PETITIONER PRAYS THAT THE COURT WILL IN ALL THINGS GRANT AND ORDER THIS WRIT OF HABEAS CORPUS BY ORDERING THE RELEASE OF PETITIONER TO PERSONAL BOND OR BY REDUCING THE AMOUNT OF BAIL TO 10,000.

8/5/02

DATE

RESPECTFULLY SUBMITTED,
BARTON BARTON GAINES

BARTON RAY GAINES JR.
LID# 057923

ORDER

ON THIS _____ DAY OF _____ 2002, CAME ON
TO BE HEARD PETITIONERS APPLICATION FOR WRIT OF
HABEAS CORPUS AND IT APPEARS TO THE COURT THAT THE
WRIT SHOULD BE _____ GRANTED _____ DENIED.

JUDGE PRESIDING

THE STATE OF TEXAS

2

IN THE 213TH CRIMINAL

VS.

22

DISTRICT COURT OF

BARTON RAY GAINES

3

TARRANT COUNTY, TEXAS

STATE'S EXPERT WITNESS LIST

COMES NOW, the State of Texas by and through her Criminal District Attorney, of Tarrant County, Texas, and files this STATE'S EXPERT WITNESS LIST.

H. P. Gass ID 2749

CSSU

350 W. Belknap, Fort Worth, Texas

P. C. Ray, ID 2449

CSSU

350 W. Belknap, Fort Worth, Texas

Ron Fazio

Firearms Expert

350 W. Belknap, Fort Worth, Texas

W. L. Waller, ID 2273

CCSU

350 W. Belknap, Fort Worth, Texas

The State will supplement this list promptly should additional information be discovered.

Respectfully submitted,

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

AUG 19 2002


Time 4:05
By SD Deputy

TIM CURRY
CRIMINAL DISTRICT ATTORNEY
TARRANT COUNTY, TEXAS

ROBERT F. FORAN, Assistant
Criminal District Attorney
Tarrant County, Texas

CERTIFICATE OF SERVICE

I, ROBERT F. FORAN, do hereby certify that on the 19th day of August, 2002, a true and correct copy of the foregoing STATE'S EXPERT WITNESS LIST was filed and faxed / mailed / hand delivered to GREG WESTFALL, the attorney of record for the Defendant.


ROBERT F. FORAN, Assistant
Criminal District Attorney

CAUSE NO. 0836979A & 0836985A

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

OCT 11 2002

THE STATE OF TEXAS

IN THE 213TH

VS.

DISTRICT COURT

BARTON RAY GAINES

TARRANT COUNTY, TEXAS

Time _____
By Rw Deputy

STATE'S MOTION IN LIMINE

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW the State of Texas, represented by her Assistant Criminal District Attorney, prior to jury selection in the above styled and numbered cause(s), and requests the Court to direct the Defendant, counsel for the Defendant, and all defense witnesses, not to mention, refer to, interrogate concerning, or bring to the attention of the jury or venire in any manner directly or indirectly any of the following matters without first approaching the bench and obtaining a ruling on their admissibility. The mere mention of such matters would be error and would harm and prejudice the right of the State of Texas to a fair trial. Further, the harm and prejudice created thereby could not completely be cured by an instruction to disregard.

- A. Any act of misconduct on the part of any witness for the State of Texas, not amounting to a final conviction for a felony or a misdemeanor involving moral turpitude.
- B. Any evidence concerning the character or trait of character of any witness for the State.
- C. Any evidence of crimes, wrongs or bad acts by any witness for the State.
- D. Any evidence concerning an opinion about or the reputation of any witness of the State for truth and veracity.

- E. Any reference, statement or argument that the State of Texas, the Government or the Tarrant County District Attorney's Office has in any way acted inappropriately, unethically or in bad faith.
- F. Any reference, statement or argument of plea bargaining or the lack of plea bargaining in this case or any other case. Additionally, any reference, statement or argument of specific offers made to this Defendant or any other Defendant charged with the same or similar offense.
- G. Any mention or reference to mental health counseling or treatment of the Defendant during the guilt/innocence phase of the trial.
- H. Any mention of the consequences to the Defendant if found guilty, including but not limited to loss of job, hardship on family, affect on any minor children under the Defendant's care.
- I. That Counsel for the Defendant or any witness for the Defense holds any personal belief that the Defendant is not guilty.

WHEREFORE, PREMISES CONSIDERED, the State requests this Motion be granted and the Defendant, counsel for the Defendant and all defense witnesses be instructed and directed not to allude to or mention any of the above subjects until a ruling can be obtained from the Court outside the presence of the jury.

Respectfully Submitted,

**TIM CURRY
CRIMINAL DISTRICT ATTORNEY
TARRANT COUNTY, TEXAS**



MICHELE HARTMANN, Assistant
Criminal District Attorney
Tarrant County, Texas
TX State Bar No. 09167800

CERTIFICATE OF SERVICE

I, Michele Hartmann, do hereby certify that on the 11th day of October, 2002, a true and correct copy of the foregoing Motion was hand delivered/ faxed/ mailed to Greg Whitfall, the attorney of record for the Defendant.



MICHELE HARTMANN, Assistant
Criminal District Attorney
Tarrant County, Texas
TX State Bar No. 09167800

ORDER

The foregoing State's Motion in Limine having been duly considered is hereby:

_____ GRANTED

_____ DENIED

Signed this _____ day of _____, 2002.

ROBERT K. GILL, Judge Presiding
213th Judicial District Court

CAUSE NOS. 0836979A & 0836985A

THE STATE OF TEXAS

v.

BARTON RAY GAINES

§
§
§
§
§

IN THE 213th DISTRICT

COURT OF TARRANT

COUNTY, TEXAS

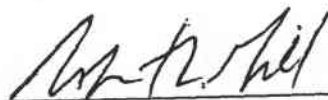
ORDER ON MOTION FOR CONTINUANCE

Before the Court is Defendant's Motion for Continuance, and the Court being sufficiently advised finds that said motion is meritorious and should be

GRANTED;

to 12/1/02 *nm*

SIGNED this 22 day of August, 2002.


JUDGE PRESIDING

CAUSE NO. 0836979A & 0836985A

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

OCT 11 2002

Time _____
By _____ 11:45 AM
Deputy

THE STATE OF TEXAS

IN THE 213TH

VS.

DISTRICT COURT

BARTON RAY GAINES

TARRANT COUNTY, TEXAS

STATE'S MOTION FOR DISCOVERY OF EXPERT WITNESS(ES)

COMES NOW the State of Texas, by and through her Criminal District Attorney of Tarrant County, Texas and pursuant to Article 39.14 (b) of The Texas Code of Criminal Procedure and makes this her **Motion for Discovery of Expert Witness(es)** and moves this Honorable Court to **ORDER** the above-named Defendant to disclose the name and address of each person the Defendant may use at trial to present evidence under Rules 702, 703, and 705 of the Texas Rules of Evidence.

The State of Texas requests that the Court **ORDER** the Defendant to make such disclosure not later than the twentieth day before the trial begins or as soon thereafter as the Defendant engages the services of any expert witness governed by the aforementioned Article 39.14 (b) of the Texas Code of Criminal Procedure.

WHEREFORE, PREMISES CONSIDERED, the State of Texas prays that her foregoing motion be in all things granted.

Respectfully Submitted,

TIM CURRY
CRIMINAL DISTRICT ATTORNEY
TARRANT COUNTY, TEXAS


MICHELE HARTMANN, Assistant

Criminal District Attorney
Tarrant County, Texas
TX State Bar No. 09167800

CERTIFICATE OF SERVICE

I hereby certify that on the 11th day of October, 2002 a true and

correct copy of the foregoing Motion was hand delivered/ ~~faxed~~/ mailed to

Greg Westfall the attorney of record for the Defendant.



MICHELE HARTMANN, Assistant

Criminal District Attorney

Tarrant County, Texas

TX State Bar No. 09167800

ORDER

The foregoing State's Motion for Discovery of Expert Witness(es) is hereby:

_____ **GRANTED** _____ **DENIED**

Signed this _____ day of _____, 2002.

ROBERT K. GILL, Presiding Judge
213th District Court
Tarrant County, Texas

CAUSE NO. 0836979A & 0836985A

NOV 13 2002

THE STATE OF TEXAS

IN THE 213TH

Time 900
By SD Moore Deputy

VS.

DISTRICT COURT

BARTON RAY GAINES

TARRANT COUNTY, TEXAS

STATE'S NOTICE TO INTRODUCE EVIDENCE
OF OTHER CRIMES, WRONGS OR ACTS

COMES NOW, THE STATE OF TEXAS, by and through Tim Curry, the Criminal District Attorney, and files this State's Notice To Introduce Evidence of Other Crimes, Wrongs or Acts pursuant to Art. 37.07 and Art. 38.37 of the TX Code of Criminal Procedure and Rule 404(b) and Rule 609 of the Texas Rules of Criminal Evidence, in the above-styled and numbered cause(s). In support thereof, the State would give notice of its intent to offer the following under the appropriate evidentiary provision(s):

1. Barton Ray Gaines, in the County of Tarrant and State of Texas, on or about the 18th day of August, 2001 solicited, encouraged, directed, aided or attempted to aid Tony Durham in the assault on a disabled individual, Robert Lee Haynie.
2. Barton Ray Gaines, in the County of Hood and State of Texas, on or about the 23rd day of February, 2002 committed aggravated assault on Richard Weaver by shooting at him with a firearm.
3. Barton Ray Gaines, in the County of Hood and State of Texas, on or about the 23rd day of February, 2002 committed aggravated assault on Stephen Ancira by shooting at him with a firearm.
4. Barton Ray Gaines, in the County of Tarrant and State of Texas, on or about the 21st day of July, 2001, did then and there intentionally or knowingly, enter in a habitation owned by another without the effective consent of said owner, David Shipman, and the said Barton Ray Gaines had notice that the entry was forbidden.
5. Barton Ray Gaines, in the County of Tarrant and State of Texas, on or about the 18th day of August, 2001 did then and there intentionally or knowingly possess a usable quantity of marihuana of two ounces or less; victim: State of Texas and Officer R.L. Thetford, ID#3139 & Officer Moore of the Fort Worth Police Department.
6. Barton Ray Gaines, in the County of Tarrant and State of Texas, on or about the 24th day of February, 2002, did attempt to commit the offense of Evading Arrest or Detention from Officer J.F. Shipp, ID#3101, Fort Worth Police Department.

Respectfully Submitted,

TIM CURRY
CRIMINAL DISTRICT ATTORNEY
TARRANT COUNTY, TEXAS



MICHELE HARTMANN, Assistant
Criminal District Attorney
Tarrant County, Texas
TX State Bar No. 09167800

CERTIFICATE OF SERVICE

This is to certify that on this 13th day of November, 2002,
was delivered via facsimile/mail/hand delivery to Greg [Signature]
Attorney of record for the Defendant.



DEC - 3 2002

Time 11:20
By Em Deputy

CAUSE NO. 0836979A & 0836985A

THE STATE OF TEXAS

IN THE 213TH

VS.

JUDICIAL DISTRICT COURT

BARTON RAY GAINES

TARRANT COUNTY, TEXAS

BRADY VS. MARYLAND COMPLIANCE NOTIFICATION

COMES NOW THE STATE OF TEXAS and files this notice in compliance with Brady vs. Maryland and the Court's pre-trial ruling. This notice serves both as written notice and confirmation of Brady material previously disclosed orally to the Defendant through his attorney of record, Greg Westfall.

1. Both Andrew Horvath and Michael Williams initially failed to disclose all the facts surrounding the offense to law enforcement. Specifically, both failed to disclose that the purpose of being at the offense location was to facilitate the Defendant purchasing marijuana from a source known to Michael Williams.
2. Both Mindy Keisel and Tarah Green initially failed to disclose all the information they knew regarding admissions made by the Defendant Barton Gaines, and the two co-defendants, Daniel Aranda and Jason Tucker. Now that's the mark of a good attorney; push it back onto opposing counsel.
3. Both Mindy Keisel and Tarah Green reported to the TC District Attorney's Office in separate meetings that Jason Tucker had admitted to them that he had loaded the weapon used in the offense.
4. Stephen Ancira and Gregory Peterson were unable to correctly identify the Defendant out of a photo spread. sounds like a drawl, not positively certain I was not the same
5. Jheen Ancira was able to identify the Defendant out of a photo spread but the identification was qualified by the following statements, "it's been a long time ago, this one keeps jumping out at me. I'm pretty sure he's the one."


Respectfully Submitted,



MICHELE HARTMANN, Assistant
Criminal District Attorney
Tarrant County, Texas
TX State Bar No. 09167800

CERTIFICATE OF SERVICE

The foregoing notice was faxed and mailed to Greg Westfall, attorney of record for the Defendant on this the 3rd day of December, 2002.



MICHELE HARTMANN

DEC - 3 2002

Time 1:08 PM
By Rm Deputy

CAUSE NO. 0836979A & 0836985A

THE STATE OF TEXAS

IN THE 213TH

VS.

JUDICIAL DISTRICT COURT

BARTON RAY GAINES

TARRANT COUNTY, TEXAS

SUPPLEMENTAL NOTICE OF EXTRANEIOUS OFFENSES

COMES NOW THE STATE OF TEXAS and submits this supplemental notice of extraneous offenses under Rule 404 (b), Art. 37.07 and Art. 38.37.

1. On or about February 21, 2002 the Defendant in the County of Tarrant and the State of Texas did ask Mindy Keisel and Tarah Green to lie to law enforcement and others about what knowledge they had regarding the Defendant's involvement in the charged offense.
2. Defendant had a reputation among his peers as a heavy partier and was known to take pills.
3. On or about February 21, 2002 the Defendant in the County of Tarrant and the State of Texas did consume alcohol while under the legal age of consumption.
4. On or about February 21, 2002 the Defendant in the County of Tarrant and the State of Texas did consume pills, Klonopin.

Klonopin? Still a long shot
from Paxil, but they're
getting closer

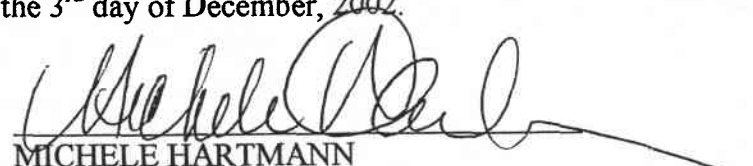
Respectfully submitted,



MICHELE HARTMANN, Assistant
Criminal District Attorney
Tarrant County, Texas
TX State Bar No. 09167800

CERTIFICATE OF SERVICE

A true and correct copy of the foregoing notice was mailed and faxed to Greg Westfall, attorney of record for the Defendant on this the 3rd day of December, 2002.



MICHELE HARTMANN

CASE NOs. 0836979A AND 0836985A

THE STATE OF TEXAS

VS.

BARTON RAY GAINES

§
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§
§
§

IN THE 213th

DISTRICT COURT

TARRANT COUNTY, TEXAS

ATTACHMENT FOR A WITNESS

TO ANY CERTIFIED PEACE OFFICER, SHERIFF OR ANY CONSTABLE OF TARRANT COUNTY, STATE OF TEXAS, GREETINGS:

You are hereby commanded to take the body of LILIA GONZALES, whose address is WHERE FOUND, TARRANT COUNTY and bring said LILIA GONZALES, before the 213th District Court, of Tarrant County, Texas, on DECEMBER 9, 2002 INSTANTER, at the 213th District Court, then and there to testify as a witness in behalf of the ^{State} in the case of THE STATE OF TEXAS vs. BARTON RAY GAINES, in Cause No. 0836979A AND 0836985A, pending before said Court, said witness having disobeyed a subpoena, with a Duces Tecum of BRINGING GERARDO MORENO, D.O.B. 10/20/85.

The Bail Bond required of said witness is fixed at \$ No Bond.

Herein fail not, and due return make of this Writ, on or about INSTANTER.

Witness my signature and seal of office on December 9, 2002.

THOMAS A. WILDER
DISTRICT CLERK
TARRANT COUNTY, TEXAS

By:


Deputy District Clerk
213th DISTRICT COURT

CASE NOS 0836979A and 0836985A

THE STATE OF TEXAS

VS.

BARTON RAY GAINES

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IN THE 213th DISTRICT

COURT OF

TARRANT COUNTY, TEXAS

TO THE HONORABLE JUDGE OF SAID COURT:

The Defendant herein represents that he has never been convicted of a felony in this or any other state, and asks the Court to submit to the Jury this application for a probated sentence.

x Barton Gaines
DEFENDANT

Subscribed and sworn to before me this 9th day of December, 2002.

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

DEC - 9 2002

1:28 PM

SEAL

Time PM Deputy

Rebecca Wilder
DEPUTY DISTRICT CLERK
TARRANT COUNTY, TEXAS

THE STATE OF TEXAS

vs. Nos. 0836979A +
0836985A

IN 213th
DISTRICT COURT _____
TARRANT COUNTY, TEXAS

BARTON RAY GAINES

DATE: Dec. 9, 2002

DEFENDANT'S MOTION FOR ASSESSMENT OF PUNISHMENT

Comes now the Defendant herein, with his attorney, _____
GREG WESTFALL, and PRIOR to Entering a Plea to the allegations
contained in the indictment in the above styled and numbered cause, HERE-
BY REQUESTS that the punishment, if any, be assessed by the JURY.*

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

DEC - 9 2002
1:28 PM
Time _____ By fw Deputy

Barton Gaines
DEFENDANT

Attorney for Defendant
ATTORNEY FOR DEFENDANT

FILED

* insert either "JUDGE" or "JURY"

CASE NO. 0836979A and 0836985A

THE STATE OF TEXAS

VS.

BARTON RAY GAINES

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IN THE 213th

DISTRICT COURT

TARRANT COUNTY, TEXAS

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

DEC 11 2002

Time

By

3:15pm

Deputy

ATTACHMENT FOR A WITNESS

TO ANY CERTIFIED PEACE OFFICER, SHERIFF OR ANY CONSTABLE OF TARRANT COUNTY, STATE OF TEXAS, GREETINGS:

You are hereby commanded to take the body of AFTAB AHMED, whose address is 7451 McCART AVE., FORT WORTH, TX, OR WHEREVER FOUND, and bring said AFTAB AHMED, before the 213th District Court, of Tarrant County, Texas, on DECEMBER 10, 2002, at INSTANTER, then and there to testify as a witness in behalf of the STATE in the case of THE STATE OF TEXAS vs. BARTON RAY GAINES, in Cause Nos. 0836979A and 0836985A, pending before said Court, said witness having disobeyed a subpoena.

The Bail Bond required of said witness is fixed at \$ No Bond.

Herein fail not, and due return make of this Writ, on or about INSTANTER.

Witness my signature and seal of office on December 10, 2002.

THOMAS A. WILDER
DISTRICT CLERK
TARRANT COUNTY, TEXAS

By:

Rebecca W. Out
Deputy District Clerk
213th DISTRICT COURT

DEC 12 2002

Time 9:11 AM
By RW Deputy

CAUSE NO. 0836985A

THE STATE OF TEXAS	X	IN THE DISTRICT COURT
VS.	X	TARRANT COUNTY, TEXAS
BARTON RAY GAINES	X	213TH JUDICIAL DISTRICT

COURT'S CHARGE

MEMBERS OF THE JURY:

The defendant, Barton Ray Gaines, stands charged by indictment with the offense of aggravated robbery with a deadly weapon.

Specifically, the indictment alleges that the defendant, Barton Ray Gaines, in Tarrant County, Texas, on or about the 21st day of February, 2002, did then and there intentionally or knowingly, while in the course of committing theft of property, threaten or place Michael Williams in fear of imminent bodily injury or death, and the defendant did then and there use or exhibit a deadly weapon, to-wit: a firearm.

To this charge the defendant has pled "guilty".

You are therefore instructed to find the defendant guilty of aggravated robbery with a deadly weapon as charged in the indictment and to set the punishment of the defendant within the range of punishment, which is life, or for any term not more than 99 years or less than 5 years. In addition, you may assess a fine not to exceed \$10,000.

Under our law, when a defendant has been found guilty of more than one offense arising out of the same criminal episode prosecuted in a single criminal action, sentence for each offense for which he has been found guilty shall run concurrently

You are instructed that in deliberating on the punishment to be assessed, you may take into consideration all the evidence admitted before you in the full trial of this case and the law submitted to you by the Court.

In a criminal case the law permits a defendant to testify in his own behalf but he is not compelled to do so, and the same law provides that the fact that a defendant does not testify shall not be considered as a circumstance against him. You will, therefore, not consider the fact that the defendant did not testify as a circumstance against him; and you will not, in your retirement to consider your verdict, allude to, comment on, consider, or in any manner refer to the fact that the defendant has not testified.

The State has introduced evidence of extraneous crimes or bad acts other than the one charged in the indictment in this case. Said evidence was admitted only for the purpose of

legal fiction; of course, I'm being punished for the extraneous too, all without the benefit of grand jury, or even worse yet, despite a grand jury's finding to the contrary.

assisting you, if it does, in determining the proper punishment for the offense for which you have found the defendant guilty. You cannot consider said testimony for any purpose unless you find and believe beyond a reasonable doubt that the defendant committed such other acts, if any were committed.

what about criminal responsibility; what if not criminal responsible? Can I be held strictly liable?

Westfall had plenty of experience with strict liability holdings in Burke v. State, 28 S.W.3d 545, 549 (Tex. Crim. App. 2000, judgment vacated) (All of the offenses under Chapter 49 are strict liability offenses.)

In this case the defendant has filed, before trial, his sworn motion in which he prays that in the event he is convicted he be granted community supervision. If the punishment assessed by you is not more than ten years confinement in the penitentiary and you further find that he has not ever been convicted of a felony in this or any other State, and if you recommend community supervision be granted in this case, then let your verdict show the punishment which you assess and show that the defendant has never before been convicted of a felony in this or any other State, and further show that you recommend that his sentence be suspended.

If the jury recommends community supervision the Court must grant it.

The conditions of community supervision may include but shall not be limited to the following:

1. That the defendant commit no offense against the laws of this State or of any other State or of the United States.

2. That the defendant avoid injurious or vicious habits.
3. That the defendant avoid persons or places of disreputable or harmful character.
4. That the defendant report to the community supervision officer as directed and obey all rules and regulations of the community supervision department.
5. That the defendant permit the community supervision officer to visit at home or elsewhere.
6. That the defendant work faithfully at suitable employment as far as possible.
7. That the defendant shall remain within a specified place.
8. That the defendant pay the fine, if one be assessed, and all court costs whether a fine be assessed or not, in one or several sums, and make restitution or reparation in any sum that the Court shall determine.
9. That the defendant support his dependents.
10. That the defendant pay a community supervision fee of not to exceed \$60.00 per month during the community supervision period.
11. That the defendant participate for a time specified by the Court in a community-based service work program designated by the Court.
12. That the defendant attend psychological counseling sessions at the direction of the probation officer and at the defendant's own expense.
13. That the defendant not directly communicate with the victim of the offense or go near a residence, school or other location, set forth by the Court, frequented by the victim.
14. That the defendant submit to a period of detention in a county jail to serve a term of imprisonment not to exceed 180 days.

It is possible that the length of time for which the defendant will be imprisoned might be reduced by the award of parole.

Under the law applicable in this case, the defendant, if sentenced to a term of imprisonment, may earn time off the period of incarceration imposed through the award of good conduct time. Prison authorities may award good conduct time to a prisoner who exhibits good behavior, diligence in carrying out prison work assignments, and attempts at rehabilitation. If a prisoner engages in misconduct, prison authorities may also take away all or part of any good conduct time earned by the prisoner.

It is also possible that the length of time for which the defendant will be imprisoned might be reduced by the award of parole.

Under the law applicable in this case, if the defendant is sentenced to a term of imprisonment, he will not become eligible for parole until the actual time served equals one-half of the sentence imposed or 30 years, whichever is less, without consideration of any good conduct time he may earn. Eligibility for parole does not guarantee that parole will be granted.

It cannot accurately be predicted how the parole law and good conduct time might be applied to this defendant if he is sentenced to a term of imprisonment, because the application of these laws will depend on decisions made by prison and parole authorities.

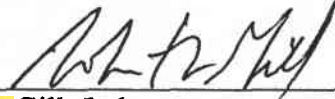
You may consider the existence of the parole law and good conduct time. However, you are not to consider the extent to which good conduct time may be awarded to or forfeited by this particular defendant. You are not to consider the manner in which the parole law may be applied to this particular defendant.

It will not be proper for you in determining the penalty to be assessed, to fix the same by lot, chance, or any other method than by a full, fair and free exercise of the opinion of the individual jurors under the evidence admitted before you.

You are charged that it is only from the witness stand that the jury is permitted to receive evidence regarding the case, or any witness therein, and no juror is permitted to communicate to

any other juror anything he may have heard regarding the case or any witness therein, from any other source than the witness stand.

Your verdict must be by a unanimous vote of all members of the jury. In deliberating on the case you are not to refer to or discuss any matter or issue not in evidence before you.



Bob Gill, Judge
213th District Court

VERDICT FORM - NO COMMUNITY SUPERVISION

We, the jury, having been instructed by the Court to find the defendant guilty of the offense of aggravated ~~assault~~ ^{robbery with a deadly weapon} with a deadly weapon as charged in the indictment, so find; and we assess his punishment at confinement in the Institutional Division of the Texas Department of Criminal Justice for 35 years ("life"; or a term of years not less than 5 or more than 99); and in addition to such confinement, we assess a fine of \$ 10,000.00 ("none"; or an amount not to exceed \$10,000), and **WE DO NOT RECOMMEND** that he be placed on community supervision.

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

DEC 12 2002

Time 12:12 PM
By ELW Deputy

Ima M. Marcus
Foreperson

VERDICT FORM -- COMMUNITY SUPERVISION

We, the jury, having been instructed by the Court to find the defendant guilty of the offense of aggravated ~~assault~~ ^{robbery with a deadly weapon} as charged in the indictment, so find; and we assess his punishment at confinement in the Institutional Division of the Texas Department of Criminal Justice for _____ years (a term not less than 5 or more than 10); and in addition we assess a fine of \$ _____ ("none"; or an amount not to exceed \$10,000); and we the jury, having assessed the punishment of the defendant at not more than ten years' confinement in the Institutional Division of the Texas Department of Criminal Justice and having further found that he has never before been convicted of a felony in this or in any other state, **WE DO RECOMMEND** that the imposition of his sentence be suspended and he be placed on community supervision.

(If fine is assessed, answer the following by checking the appropriate blank:)

WE RECOMMEND:

- _____ (A) that the Defendant be required, as a condition of community supervision, to pay the fine assessed; **OR**
_____ (B) that payment of the fine be suspended.

Foreperson

1- the group photo
taken 2.21.02
5 kids

2- photo's of injured
victims - Andrew & Mike

② -

Ima N. Marack

#1
11:15 AM

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

DEC 12 2002

Time 11:05 AM
By R Deputy

JURY NOTE

1

We have reached a verdict

John M. Morack

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

DEC 12 2002

Time 11:45 AM
By RW Deputy

11:45
RW

JURY NOTE

2

C E R T I F I C A T E O F P R O C E E D I N G S

CASE: 0836985 DATE: 12/12/02 DOCKET: 0836985A CID: 0579723

DEFENDANT: GAINES, BARTON RAY WARRANT:
MICRO: INDICTED: Y DATE: 04/25/02

COURT: D213 HEARD: TRANSFER COURT:

CHOV: / / I/O: COUNTY:

CHARGE OFFENSE: 099020 CAPITAL MURDER-ATTEMPT DATE: 02/21/02 LSR INC:

DISPOSITION OFFENSE: 120109 Agg Robb w/ D.W.

PLEA: PGBJ (count 2) BOND TYPE: FINE:

DISP: FELC / / STATUS: CT COST:

SENTENCE: P035Y / / EVENT: MISC:

ACTION: / / DUE: / /

PROB (MOS): / / AMOUNT: PAID:

FORFEIT: / /

INST VERD: BONDSMAN:

PROCEEDINGS: 12-9-02: Jury seated, 12-12-02: Jury Verdict: ~~Not~~ Guilty
of Agg Robb w/ D.W. 35 yrs, IDTOCT + \$10,000.00 Fine
CTS cc w/ TC

JUDGE/: [Signature] CLERK: Rebecca [Signature]
MAGISTRATE

CTS = 2-23-02 to DOS
21

1-1 waived
2k 1st
Foran
Robert [Signature]
Michele Hartmann

[Signature]
Voir Dire Kaye - Ct reporter
T. D. [Signature]

Greg Westfall
Cheyenne Minick 40

CASE NO. 0836985A

THE STATE OF TEXAS

§

IN THE 213TH DISTRICT

VS.

§

COURT OF

BARTON RAY GAINES

§

TARRANT COUNTY, TEXAS

JUDGMENT ON JURY VERDICT OF GUILTY
PUNISHMENT FIXED BY COURT OR JURY - NO PROBATION GRANTED

Judge Presiding	: HON. ROBERT K. GILL	Date of Judgment	: DECEMBER 12, 2002
Attorney for State District Attorney	: TIM CURRY	Assistant District Attorney	: ROBERT F. FORAN MICHELE HARTMANN
Attorney for Defendant	: GREG WESTFALL CHEYENNE MINICK	Charging Instrument:	INDICTMENT
<u>Offense Date</u>	<u>Convicted Offense</u>		
FEBRUARY 21, 2002	AGGRAVATED ROBBERY WITH A DEADLY WEAPON, TO-WIT: A FIREARM		
<u>Degree</u>	<u>Count</u>	<u>Plea</u>	
1ST	TWO	GUILTY	
Findings on Deadly Weapon	: THE JURY AFFIRMATIVELY FINDS THAT THE DEFENDANT USED OR EXHIBITED A DEADLY WEAPON, TO-WIT: A FIREARM DURING THE COMMISSION OF THE OFFENSE OR DURING THE IMMEDIATE FLIGHT THEREFROM.		
Plea to Enhancement Paragraph(s)	: NONE		
Plea to Habitual Paragraph(s)	: NONE		
Findings on Enhancement/ Habitual Paragraph(s)	: NONE		
Jury Verdict	: GUILTY		
Punishment Assessed By	: JURY		
Date Sentence Imposed	: DECEMBER 12, 2002	Date to Commence	: DECEMBER 12, 2002
Punishment	: COUNT TWO - THIRTY-FIVE(35) YEARS		
Place of Confinement	: INSTITUTIONAL DIVISION OF THE TEXAS DEPARTMENT OF CRIMINAL JUSTICE		
Fine	: \$10,000.00 TEN THOUSAND DOLLARS AND ZERO CENTS		
Time Credited	: 295 DAYS	Court Costs	: \$273.00
Reparation	: NONE	Restitution	: NONE
Multiple Sentences	: TO BE SERVED CONCURRENTLY		
WITH SENTENCE(S) RENDERED IN TARRANT COUNTY			

On this day, set forth above, this cause came for trial, and the State appeared by the above-named attorney, and the Defendant appeared in person in open court, the above-named counsel for Defendant also being present, or, where a Defendant is not represented by counsel, that the Defendant knowingly, intelligently, and voluntarily waived the right to representation by counsel; and the said Defendant having been duly arraigned and it appearing to the Court that Defendant was mentally competent, and having pleaded as shown above to the indictment herein, both parties announced ready for trial and thereupon a jury, to-wit, the above named foreman and eleven others, was duly selected, impaneled and sworn, who having heard the indictment read and the

41 *rm*

Defendant's plea thereto, and having heard the evidence submitted, and having been duly charged by the Court, retired in charge of the proper officer to consider the verdict, and afterward were brought into Court by the proper officer, the Defendant and Defendant's counsel being present, and returned into open court the verdict set forth above, which was received by the Court, and is here now entered upon the minutes of the Court as shown above.

Thereupon, the Defendant elected to have punishment assessed by the above shown assessor of punishment, and when shown above that the indictment contains enhancement paragraph(s), which were not waived, and alleges Defendant to have been convicted previously of any felony or offenses for the purpose of enhancement of punishment, then the Court asked Defendant if such allegations were true or false and Defendant answered as shown above. And when Defendant is shown above to have elected to have the jury assess punishment, such jury was called back into the box and heard evidence relative to the question of punishment and having been duly charged by the Court, they retired to consider such question, and after having deliberated, they returned into Court the verdict shown under punishment above; and when Defendant is shown above to have elected to have punishment fixed by the Court, in due form of law further evidence was heard by the Court relative to the question of punishment and the Court fixed the punishment of the Defendant as shown above.

IT IS THEREFORE CONSIDERED AND ORDERED by the Court, in the presence of the Defendant, that the said judgment be, and the same is hereby in all things approved and confirmed, and that the Defendant is adjudged guilty of the offense set forth above as found by the verdict of the jury, as set forth above, and said Defendant be punished in accordance with the Jury Verdict or the Court's Finding, as shown above and that the Defendant is sentenced to a term of imprisonment or fine or both, as set forth above, and that said Defendant be delivered by the Sheriff to the Director of the Institutional Division of the Texas Department of Criminal Justice, or other person legally authorized to receive such convicts for the punishment assessed herein, and the said Defendant shall be confined for the above named term in accordance with the provisions of law governing such punishments and execution may issue as necessary.

And, if shown above that the Defendant has been duly and legally convicted of a prior offense by showing the court, cause number, and offense, together with the punishment for such offense and date Defendant was sentenced for such offense in accordance with such conviction, then it is further ORDERED AND ADJUDGED that the punishment herein adjudged against said Defendant shall begin when the judgment in such prior offense, when shown above, shall have ceased to operate.

And the said Defendant is remanded to jail until said Sheriff can obey the direction of this judgment.


PRESIDING JUDGE

Date Signed : DECEMBER 12, 2002

Notice of Appeal : DECEMBER 12, 2002

Mandate Received : _____

IN THE D 213 DISTRICT COURT OF TARRANT COUNTY, TE:

OFFENSE: Attempted Capital Murder

NO. 0836979A & 0836985A THE STATE OF TEXAS VS. Barton Ray Guinis

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

NOV 25 2002

APPLICATION FOR SUBPOENA

TO THE CLERK OF THE DISTRICT COURTS OF TARRANT COUNTY, TEXAS:

You will please Issue subpoena in accordance with law in the above numbered and entitled cause the following witnesses, whose testimony is material to the State or the Defense.

Time 8:25

tgc Deputy

NAME OF WITNESS	VOCATION, ADDRESS AND TELEPHONE NUMBER	COL
① Mindy Keisel	Where found	Tarrant
② Tara Green	Where found	Tarrant
③ Michael Williams	Where found	Tarrant
④ Andrew Horvath	Where found	Tarrant
⑤ Richard Weaver	Where found	Hood
⑥ Stephen Ancic	Where found	Hood
⑦ Greg Peterson	Where found	Hood

Duces tecum:

THESE WITNESSES ARE TO PERSONALLY APPEAR ON THE 10th DAY OF December
A.D. 2002 AT 8:00 O'CLOCK A .M., AT THE D 213 DIS
COURT NO. _____ COURTROOM IN THE TARRANT COUNTY COURTHOUSE IN FORT WORTH, T

Michael R. [Signature]
ATTORNEY FOR STATE, DEFENDANT

Issued 25 day of November, 2002 by tgc

Signature of person serving subpoena if other than officer of the State

SUBPOENA

DATE OF ISSUE: November 25, 2002

TO ANY SHERIFF OR ANY PROPER PERSON AUTHORIZED BY THE STATE OF TEXAS, GREETINGS:

You are hereby commanded to summon the hereinafter named person or persons to be and personally appear before the below named court of Tarrant County, Texas, at the Tarrant County Justice Center of said County, in the City of Fort Worth, at the below shown date and time, then and there to testify on behalf of the below shown party in the styled and numbered action shown below pending in said Court, and there remain from day to day and from term to term until discharged by said Court.

CASE NO. 0836979A & 0836985A

THE STATE OF TEXAS

VS.

BARTON RAY GAINES

§
§
§
§
§

IN THE 213TH

DISTRICT COURT OF

TARRANT COUNTY, TEXAS

And the said witness is further directed to bring with him and produce in Court the following instrument or instruments in writing or other thing desired as evidence: NONE

To appear as a Witness for the STATE. Witness is to appear on DECEMBER 10, 2002, 8AM.

MINDY KEISEL
WHEREVER FOUND

TARRANT COUNTY

TARAH GREEN
WHEREVER FOUND

TARRANT COUNTY

MICHAEL WILLIAMS
WHEREVER FOUND

TARRANT COUNTY

ANDREW HORVATH
WHEREVER FOUND

TARRANT COUNTY

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

DEC - 5 2002

Time 10:40
By R. W. Deputy

HEREIN FAIL NOT, but of this subpoena make due return, showing how you have executed the same.

A disobedience of this subpoena is punishable by fine not exceeding five hundred dollars, to be collected as fines and costs in other criminal cases.

THOMAS A. WILDER
District Clerk
Tarrant County, Texas

By David C. Deputy
Deputy

(Felony cases. To be read to witness if served in Tarrant County and to be executed by delivering a copy to each witness named outside of Tarrant County. May also be used for duces tecum.)

OFFICER'S RETURN

CAME TO HAND on the 25th day of November, 2002, and executed by reading the within subpoena to and within the hearing of the witnesses, summoned in Tarrant County, and by delivering a true copy of this Writ to the within named witnesses summoned outside of Tarrant County, or by Duces Tecum, on the dates and at the places hereinafter set forth as follows:

NAME	ADDRESS	Date Summoned	Time Summoned	Mileage	Total Fees
Michael Williams	304 Willow, Cleary	12-4-02	11am		
Mindy Keisel	1508 St. Johns	12-4-02	4pm		

The following named witnesses not summoned for the reasons set opposite their names in accordance with Art. 24.04 C.C.P.

Andrew Horvath & Tarah Green are juveniles & were served with appropriate subpoenas.

Tarrant County, Texas
By John C. Deputy Deputy
Investigator

SUBPOENA

DATE OF ISSUE: November 25, 2002

TO ANY SHERIFF OR ANY PROPER PERSON AUTHORIZED BY THE STATE OF TEXAS, GREETINGS:

You are hereby commanded to summon the hereinafter named person or persons to be and personally appear before the below named court of Tarrant County, Texas, at the Tarrant County Justice Center of said County, in the City of Fort Worth, at the below shown date and time, then and there to testify on behalf of the below shown party in the styled and numbered action shown below pending in said Court, and there remain from day to day and from term to term until discharged by said Court.

CASE NO. 0836979A & 0836985A

THE STATE OF TEXAS

VS.

BARTON RAY GAINES

§
§
§
§
§

IN THE 213TH

DISTRICT COURT OF

TARRANT COUNTY, TEXAS

And the said witness is further directed to bring with him and produce in Court the following instrument or instruments in writing or other thing desired as evidence: NONE

To appear as a Witness for the STATE. Witness is to appear on DECEMBER 10, 2002, 8AM.

RICHARD WEAVER
WHEREVER FOUND

HOOD COUNTY

STEPHEN ANCIRA
WHEREVER FOUND

HOOD COUNTY

GREG PETERSON
WHEREVER FOUND

HOOD COUNTY

HEREIN FAIL NOT, but of this subpoena make due return, showing how you have executed the same.

A disobedience of this subpoena is punishable by fine not exceeding five hundred dollars, to be collected as fines and costs in other criminal cases.

THOMAS A. WILDER
District Clerk
Tarrant County, Texas

By: Dail Cox
Deputy

(Felony cases. To be read to witness if served in Tarrant County and to be executed by delivering a copy to each witness named outside of Tarrant County. May also be used for duces tecum.)

OFFICER'S RETURN

CAME TO HAND on the 25TH day of November, 2002, and executed by reading the within subpoena to and within the hearing of the witnesses, summoned in Tarrant County, and by delivering a true copy of this Writ to the within named witnesses summoned outside of Tarrant County, or by Duces Tecum, on the dates and at the places hereinafter set forth as follows:

NAME	ADDRESS,	Date Summoned	Time Summoned	Mileage	Total Fees
<u>RICHARD WEAVER</u>	<u>EL PASO CO. S.D.</u>	<u>11-26-02</u>	<u>6:50pm</u>		
<u>STEPHEN ANCIRA</u>	<u>EL PASO CO. S.D.</u>	<u>11-26-02</u>	<u>6:30pm</u>		
<u>GREG PETERSON</u>	<u>EL PASO CO. S.D.</u>	<u>11-26-02</u>	<u>6:30pm</u>		

The following named witnesses not summoned for the reasons set opposite their names in accordance with Art. 24.04 C.C.P.

FILED

THOMAS A. WILDER, DIST. CLERK
TARRANT COUNTY, TEXAS

DEC - 5 2002

Time 10:40
By RC Deputy

TARRANT County, Texas
By JOHN E. HUBBARD Deputy
Investigator 45

IN THE D213 DISTRICT COURT OF TARRANT COUNTY, TE
OFFENSE: Attempted Capital Murder
NO. 08369779A & 0836985A THE STATE OF TEXAS VS. Barton Thomas A. Wilder, DIST. CLERK
TARRANT COUNTY, TEXAS

APPLICATION FOR SUBPOENA

TO THE CLERK OF THE DISTRICT COURTS OF TARRANT COUNTY, TEXAS:

Time 8:25
By tgc
NOV 25 2002

You will please issue subpoena in accordance with law in the above numbered and entitled cause the following witnesses, whose testimony is material to the State or the Defense.

NAME OF WITNESS	VOCATION, ADDRESS AND TELEPHONE NUMBER	COL
<u>Qutab Ahmed</u>	<u>7451 McCart Ave</u> <u>FW, TX or where</u> <u>found.</u>	<u>Tarrant</u>
<u>Gerardo Moreno</u>	<u>5211 Southcrest</u> <u>CT, FW, TX</u> <u>or where found</u>	<u>Tarrant</u>

Duces tecum:

THESE WITNESSES ARE TO PERSONALLY APPEAR ON THE 10th DAY OF December
A.D. 2002 AT 8:00 O'CLOCK A.M. AT THE D213 DIS
COURT NO. _____ COURTROOM IN THE TARRANT COUNTY COURTHOUSE IN FORT WORTH, TE

Michelle D. [Signature]
ATTORNEY FOR STATE, DEFENDANT

Issued 25 day of November, 2002 by tgc

Signature of person serving subpoena if other than officer of the State

SUBPOENA

DATE OF ISSUE: November 25, 2002

TO ANY SHERIFF OR ANY PROPER PERSON AUTHORIZED BY THE STATE OF TEXAS, GREETINGS:

You are hereby commanded to summon the hereinafter named person or persons to be and personally appear before the below named court of Tarrant County, Texas, at the Tarrant County Justice Center of said County, in the City of Fort Worth, at the below shown date and time, then and there to testify on behalf of the below shown party in the styled and numbered action shown below pending in said Court, and there remain from day to day and from term to term until discharged by said Court.

CASE NO. 0836979A & 0836985A

THE STATE OF TEXAS

VS.

BARTON RAY GAINES

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IN THE 213TH

DISTRICT COURT OF

TARRANT COUNTY, TEXAS

And the said witness is further directed to bring with him and produce in Court the following instrument or instruments in writing or other thing desired as evidence: NONE

To appear as a Witness for the STATE. Witness is to appear on DECEMBER 10, 2002, 8AM.

AFTAB AHMED
7451 MCCART AVE
FORT WORTH, TX
OR WHEREVER FOUND

TARRANT COUNTY

GERARDO MORENO
5211 SOUTHCREST CT
FORT WORTH, TX
OR WHEREVER FOUND

TARRANT COUNTY

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

DEC - 5 2002

Time 10:40
By RWC Deputy

HEREIN FAIL NOT, but of this subpoena make due return, showing how you have executed the same.

A disobedience of this subpoena is punishable by fine not exceeding five hundred dollars, to be collected as fines and costs in other criminal cases.

THOMAS A. WILDER
District Clerk
Tarrant County, Texas

By: Dail Cox
Deputy

(Felony cases. To be read to witness if served in Tarrant County and to be executed by delivering a copy to each witness named outside of Tarrant County. May also be used for duces tecum.)

OFFICER'S RETURN

CAME TO HAND on the 25th day of November, 2002, and executed by reading the within subpoena to and within the hearing of the witnesses, summoned in Tarrant County, and by delivering a true copy of this Writ to the within named witnesses summoned outside of Tarrant County, or by Duces Tecum, on the dates and at the places hereinafter set forth as follows:

NAME	ADDRESS	Date Summoned	Time Summoned	Mileage	Total Fees
<u>Aftab Ahmed</u>	<u>7451 McCart Ave</u>	<u>11-27-02</u>	<u>5:45pm</u>		

The following named witnesses not summoned for the reasons set opposite their names in accordance with Art. 24.04 C.C.P.

Gerardo Moreno Determined to be a juvenile & must be served on another subpoena.

Tarrant County, Texas
By: Dail Cox Deputy
Investigator

IN THE 213TH Criminal District Court of Tarrant County, Texas

Offense: Attempted Murder

Cause No.: 0836979A & 0836985A - The State of Texas vs. Barton Ray Gaines

APPLICATION FOR SUBPOENA

TO THE CLERK OF THE DISTRICT COURTS OF TARRANT COUNTY, TEXAS:

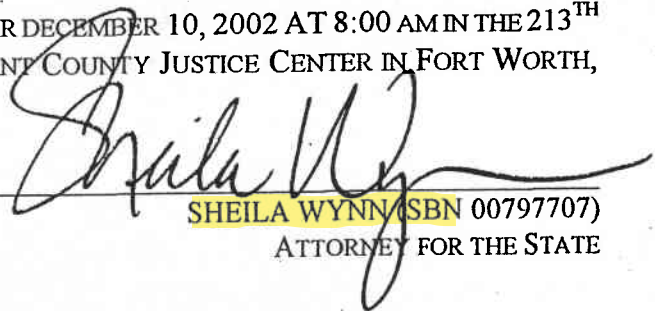
You will please issue subpoena in accordance with law in the above numbered and entitled cause for the following named witnesses, whose testimony is material to the State or the defense.

NAME OF WITNESS	VOCATION, ADDRESS AND TELEPHONE NUMBER	COUNTY
Gary Green	Wherever found	Tarrant
Sherry Green	Wherever found	

Duces tecum Produce the minor child Tarah Green for testimony in the above cause.

THESE WITNESSES ARE TO PERSONALLY APPEAR DECEMBER 10, 2002 AT 8:00 AM IN THE 213TH DISTRICT COURT COURTROOM IN THE TARRANT COUNTY JUSTICE CENTER IN FORT WORTH, TEXAS.

This is my initial appeal attorney's wife.
Other than filing this motion, as far as
can tell, she had no part in my
prosecution.


SHEILA WYNN (SBN 00797707)
ATTORNEY FOR THE STATE

Issued 25 day of November, 2002, by sgp

Signature of person serving subpoena if other than officer of the State

SUBPOENA

DATE OF ISSUE: November 25, 2002

TO ANY SHERIFF OR ANY PROPER PERSON AUTHORIZED BY THE STATE OF TEXAS, GREETINGS:

You are hereby commanded to summon the hereinafter named person or persons to be and personally appear before the below named court of Tarrant County, Texas, at the Tarrant County Justice Center of said County, in the City of Fort Worth, at the below shown date and time, then and there to testify on behalf of the below shown party in the styled and numbered action shown below pending in said Court, and there remain from day to day and from term to term until discharged by said Court.

CASE NO. 0836979A & 0836985A

THE STATE OF TEXAS

VS.

BARTON RAY GAINES

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IN THE 213TH

DISTRICT COURT OF

TARRANT COUNTY, TEXAS

And the said witness is further directed to bring with him and produce in Court the following instrument or instruments in writing or other thing desired as evidence: PRODUCE THE MINOR CHILD TARAH GREEN FOR TESTIMONY IN THE ABOVE CAUSE

To appear as a Witness for the STATE. Witness is to appear on DECEMBER 10, 2002, 8AM.

GARY GREEN
WHEREVER FOUND

TARRANT COUNTY

SHERRY GREEN
WHEREVER FOUND

TARRANT COUNTY

HEREIN FAIL NOT, but of this subpoena make due return, showing how you have executed the same.

A disobedience of this subpoena is punishable by fine not exceeding five hundred dollars, to be collected as fines and costs in other criminal cases.

THOMAS A. WILDER
District Clerk
Tarrant County, Texas

By: [Signature]
Deputy

(Felony cases. To be read to witness if served in Tarrant County and to be executed by delivering a copy to each witness named outside of Tarrant County. May also be used for duces tecum.)

OFFICER'S RETURN

CAME TO HAND on the 25th day of November, 2002, and executed by reading the within subpoena to and within the hearing of the witnesses, summoned in Tarrant County, and by delivering a true copy of this Writ to the within named witnesses summoned outside of Tarrant County, or by Duces Tecum, on the dates and at the places hereinafter set forth as follows:

NAME	ADDRESS	Date Summoned	Time Summoned	Mileage	Total Fees
<u>Gary Green</u>	<u>1177 Fort Worth TR.</u>	<u>11-25-02</u>	<u>1:30pm</u>		

The following named witnesses not summoned for the reasons set opposite their names in accordance with Art. 24.04 C.C.P.

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

DEC - 5 2002

Time 10:40
By [Signature] Deputy

[Signature] County, Texas
By [Signature] Deputy
INVESTIGATOR

IN THE D213 DISTRICT COURT OF TARRANT COUNTY, TEX.

OFFENSE: Attempted Capital Murder

NO. 0836977A 0836985A THE STATE OF TEXAS VS. Barton Gaines

APPLICATION FOR SUBPOENA

TO THE CLERK OF THE DISTRICT COURTS OF TARRANT COUNTY, TEXAS:

You will please issue subpoena in accordance with law in the above numbered and entitled cause and the following witnesses, whose testimony is material to the State or the Defense.

FILED
THOMAS A. WILDER, DIST. CLERK
TARRANT COUNTY, TEXAS
DEC - 2 2002
Time 10:00 AM
By Ph
Deputy

NAME OF WITNESS	VOCATION, ADDRESS AND TELEPHONE NUMBER	COUN
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<u>Theen Ancira</u>	<u>where Found</u>	<u>Hood</u>
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<u>*Lilia Gonzales</u>	<u>where Found</u>	<u>Tarrant</u>
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*Duces tecum: Please bring Gerardo Moreno, dob: 10-20-85.

THESE WITNESSES ARE TO PERSONALLY APPEAR ON THE 9th DAY OF December
A.D. 2002 AT 9 O'CLOCK A.M, AT THE D213 DIST

COURT NO. _____ COURTROOM IN THE TARRANT COUNTY COURTHOUSE IN FORT WORTH, TEX.

Michael Wil
ATTORNEY FOR STATE, DEFENDANT

Issued 2nd day of December 2002 by Lebecca Wil

Signature of person serving subpoena if other than officer of the State

SUBPOENA

DATE OF ISSUE: December 4, 2002

TO ANY SHERIFF OR ANY PROPER PERSON AUTHORIZED BY THE STATE OF TEXAS, GREETINGS:

You are hereby commanded to summon the hereinafter named person or persons to be and personally appear before the below named court of Tarrant County, Texas, at the Tarrant County Justice Center of said County, in the City of Fort Worth, at the below shown date and time, then and there to testify on behalf of the below shown party in the styled and numbered action shown below pending in said Court, and there remain from day to day and from term to term until discharged by said Court.

CASE NO. 0836979A AND 0836985A

THE STATE OF TEXAS

VS.

BARTON RAY GAINES

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IN THE 213th

DISTRICT COURT OF

TARRANT COUNTY, TEXAS

And the said witness is further directed to bring with him and produce in Court the following instrument or instruments in writing or other thing desired as evidence: NONE

To appear as a Witness for the STATE. Witness is to appear on DECEMBER 9, 2002 AT 9:00 A.M.

JHEEN ANCIRA

WHERE FOUND

HOOD COUNTY

HEREIN FAIL NOT, but of this subpoena make due return, showing how you have executed the same.

A disobedience of this subpoena is punishable by fine not exceeding five hundred dollars, to be collected as fines and costs in other criminal cases.

THOMAS A. WILDER
District Clerk
Tarrant County, Texas

By: Rebecca W. [Signature]
Deputy

(Felony cases. To be read to witness if served in Tarrant County and to be executed by delivering a copy to each witness named outside of Tarrant County. May also be used for duces tecum.)

OFFICER'S RETURN

CAME TO HAND on the _____ day of _____, _____, and executed by reading the within subpoena to and within the hearing of the witnesses, summoned in Tarrant County, and by delivering a true copy of this Writ to the within named witnesses summoned outside of Tarrant County, or by Duces Tecum, on the dates and at the places hereinafter set forth as follows:

NAME	ADDRESS	Date Summoned	Time Summoned	Mileage	Total Fees

The following named witnesses not summoned for the reasons set opposite their names in accordance with Art. 24.04 C.C.P.

_____ County, Texas
By _____ Deputy

SUBPOENA

DATE OF ISSUE: December 2, 2002

TO ANY SHERIFF OR ANY PROPER PERSON AUTHORIZED BY THE STATE OF TEXAS, GREETINGS:

You are hereby commanded to summon the hereinafter named person or persons to be and personally appear before the below named court of Tarrant County, Texas, at the Tarrant County Justice Center of said County, in the City of Fort Worth, at the below shown date and time, then and there to testify on behalf of the below shown party in the styled and numbered action shown below pending in said Court, and there remain from day to day and from term to term until discharged by said Court.

CASE NO. 0836979A AND 0836985A

THE STATE OF TEXAS

VS.

BARTON RAY GAINES

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IN THE 213th

DISTRICT COURT OF

TARRANT COUNTY, TEXAS

And the said witness is further directed to bring with him and produce in Court the following instrument or instruments in writing or other thing desired as evidence: DUCES TECUM: PLEASE BRING GERARDO MORENO, D.O.B. 10-20-85.

To appear as a Witness for the STATE. Witness is to appear on DECEMBER 9, 2002 AT 9:00 A.M.

LILIA GONZALES

WHERE FOUND TARRANT COUNTY

HEREIN FAIL NOT, but of this subpoena make due return, showing how you have executed the same.

A disobedience of this subpoena is punishable by fine not exceeding five hundred dollars, to be collected as fines and costs in other criminal cases.

THOMAS A. WILDER
District Clerk
Tarrant County, Texas

By: Rebecca Wilder
Deputy

(Felony cases. To be read to witness if served in Tarrant County and to be executed by delivering a copy to each witness named outside of Tarrant County. May also be used for duces tecum.)

OFFICER'S RETURN

CAME TO HAND on the 2nd day of December, 2002, and executed by reading the within subpoena to and within the hearing of the witnesses, summoned in Tarrant County, and by delivering a true copy of this Writ to the within named witnesses summoned outside of Tarrant County, or by Duces Tecum, on the dates and at the places hereinafter set forth as follows:

NAME	ADDRESS	Date Summoned	Time Summoned	Mileage	Total Fees
Lilia Gonzales	4800 S. R. W. Fwy. Ft. Worth	12-3-02	7:30am		

The following named witnesses not summoned for the reasons set opposite their names in accordance with Art. 24.04 C.C.P.

Tarrant County, Texas
By: Frank C. Hubbard Deputy
Frank Hubbard

IN THE D213 DISTRICT COURT OF TARRANT COUNTY, TEX.

OFFENSE: Attempted Capital Murder

NO. 0836979A THE STATE OF TEXAS VS. Barton Gaines

0836985A

APPLICATION FOR SUBPOENA

TO THE CLERK OF THE DISTRICT COURTS OF TARRANT COUNTY, TEXAS:

You will please Issue subpoena In accordance with law In the above numbered and entitled cause I the following witnesses, whose testimony is material to the State or the Defense.

NAME OF WITNESS	VOCATION, ADDRESS AND TELEPHONE NUMBER	COUN
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* Rosemary Horvath	Where found.	Tarrant
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Wagon Murney	Where found	Tarrant
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FILED
THOMAS A. WILDER, DIST. CLERK
TARRANT COUNTY, TEXAS

DEC - 4 2002

Time 11:30 AM
By EW Deputy

* Duces tecum: Bring Andrew Horvath.

THESE WITNESSES ARE TO PERSONALLY APPEAR ON THE 10th DAY OF December

A.D. 2002 AT 8:00 O'CLOCK A .M., AT THE D213 DIST

COURT NO. _____ COURTROOM IN THE TARRANT COUNTY COURTHOUSE IN FORT WORTH, TEX.

Michael Paul
ATTORNEY FOR STATE, DEFENDANT

Issued 4 day of December, 2002 by Shoene

Signature of person serving subpoena if other than officer of the State

SUBPOENA

DATE OF ISSUE: December 4, 2002

TO ANY SHERIFF OR ANY PROPER PERSON AUTHORIZED BY THE STATE OF TEXAS, GREETINGS:

You are hereby commanded to summon the hereinafter named person or persons to be and personally appear before the below named court of Tarrant County, Texas, at the Tarrant County Justice Center of said County, in the City of Fort Worth, at the below shown date and time, then and there to testify on behalf of the below shown party in the styled and numbered action shown below pending in said Court, and there remain from day to day and from term to term until discharged by said Court.

CASE NO. 0836979A/0836985A

THE STATE OF TEXAS

VS.

BARTON GAINES

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IN THE 213TH

DISTRICT COURT OF

TARRANT COUNTY, TEXAS

And the said witness is further directed to bring with him and produce in Court the following instrument or instruments in writing or other thing desired as evidence: *BRING ANDREW HORVATH

To appear as a Witness for the STATE. Witness is to appear on DECEMBER 10, 2002 AT 8:00 A.M. IN THE 213TH DISTRICT COURT.

*ROSEMARY HORVATH
WHERE FOUND/TARRANT COUNTY

HEREIN FAIL NOT, but of this subpoena make due return, showing how you have executed the same.

A disobedience of this subpoena is punishable by fine not exceeding five hundred dollars, to be collected as fines and costs in other criminal cases.

THOMAS A. WILDER
District Clerk
Tarrant County, Texas

By: D. Greene
Deputy

(Felony cases. To be read to witness if served in Tarrant County and to be executed by delivering a copy to each witness named outside of Tarrant County. May also be used for duces tecum.)

OFFICER'S RETURN

CAME TO HAND on the 4th day of December, 2002, and executed by reading the within subpoena to and within the hearing of the witnesses, summoned in Tarrant County, and by delivering a true copy of this Writ to the within named witnesses summoned outside of Tarrant County, or by Duces Tecum, on the dates and at the places hereinafter set forth as follows:

NAME	ADDRESS	Date Summoned	Time Summoned	Mileage	Total Fees
<u>Rosemary Horvath</u>	<u>10308 Fawn Meadow</u>	<u>12-4-02</u>	<u>5pm</u>		

The following named witnesses not summoned for the reasons set opposite their names in accordance with Art. 24.04 C.C.P.

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

DEC - 5 2002

Time 10:40
By Er Deputy

Tarrant County, Texas
By John C. Hubbard Deputy
Investigator

IN THE D213 DISTRICT COURT OF TARRANT COUNTY, TE.
OFFENSE: Attempted Capital Murder
NO. 0836979A & 0836985A THE STATE OF TEXAS VS. Barton Ray Gaines

APPLICATION FOR SUBPOENA

TO THE CLERK OF THE DISTRICT COURTS OF TARRANT COUNTY, TEXAS:

You will please issue subpoena in accordance with law in the above numbered and entitled cause the following witnesses, whose testimony is material to the State or the Defense.

NAME OF WITNESS	VOCATION, ADDRESS AND TELEPHONE NUMBER	COL
<u>Debra Harwood</u> <u>Custodian of Records</u>	<u>Custodian of Records</u> <u>Harris Methodist Hospital</u> <u>1301 Pennsylvania Ave.</u> <u>Fort Worth TX 76104</u>	<u>Tarrant</u>

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

DEC - 5 2002

Time 3:30
By [Signature] Deputy

Duces tecum: Please produce records for admission, treatment,
testing & diagnosis on Michael Williams DOB: 09-28-84
for admission & treatment date February 21, 22, 2002.
starting 9th

THESE WITNESSES ARE TO PERSONALLY APPEAR ON THE 23rd DAY OF December
A.D. 2002 AT 9:00 O'CLOCK A.M., AT THE D213 DIS

COURT NO. _____ COURTROOM IN THE TARRANT COUNTY COURTHOUSE IN FORT WORTH, TE.

Why not include the date they were released too (i.e., the 23rd)? Did they show Mike was released first, thereby contradict Charla reason why she didn't ask Andy to identify me before I was arrested too?

[Signature]
ATTORNEY FOR STATE, DEFENDANT

Issued 5th day of December, 2002 by Rebecca K. [Signature]

Signature of person serving subpoena if other than officer of the State

SUBPOENA

DATE OF ISSUE: December 5, 2002

TO ANY SHERIFF OR ANY PROPER PERSON AUTHORIZED BY THE STATE OF TEXAS, GREETINGS:

You are hereby commanded to summon the hereinafter named person or persons to be and personally appear before the below named court of Tarrant County, Texas, at the Tarrant County Justice Center of said County, in the City of Fort Worth, at the below shown date and time, then and there to testify on behalf of the below shown party in the styled and numbered action shown below pending in said Court, and there remain from day to day and from term to term until discharged by said Court.

CASE NO. 0836979A AND 0836985A

THE STATE OF TEXAS

VS.

BARTON RAY GAINES

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IN THE 213th

DISTRICT COURT OF

TARRANT COUNTY, TEXAS

And the said witness is further directed to bring with him and produce in Court the following instrument or instruments in writing or other thing desired as evidence: DUCES TECUM: PLEASE PRODUCE RECORDS FOR ADMISSION, TREATMENT, TESTING AND DIAGNOSIS, ON MICHAEL WILLIAMS - D.O.B.: 09-28-84 FOR ADMISSION & TREATMENT STARTING DATE FEBRUARY 21, 22, 2002.

To appear as a Witness for the STATE. Witness is to appear on DECEMBER 9, 2002 AT 9:00 A.M.

CUSTODIAN OF RECORDS

HARRIS METHODIST HOSPITAL
1301 PENNSYLVANIA AVE.
FORT WORTH, TX 76104

TARRANT COUNTY

Why not include the date they were released too (i.e., the 23rd)? Did they show Mike was released first, thereby contradict Charla reason why she didn't ask Andy to identify me before I was arrested too?

HEREIN FAIL NOT, but of this subpoena make due return, showing how you have executed the same.

A disobedience of this subpoena is punishable by fine not exceeding five hundred dollars, to be collected as fines and costs in other criminal cases.

THOMAS A. WILDER
District Clerk
Tarrant County, Texas

By: Rebecca Wilder
Deputy

(Felony cases. To be read to witness if served in Tarrant County and to be executed by delivering a copy to each witness named outside of Tarrant County. May also be used for duces tecum.)

OFFICER'S RETURN

CAME TO HAND on the 5TH day of December 2002, and executed by reading the within subpoena to and within the hearing of the witnesses, summoned in Tarrant County, and by delivering a true copy of this Writ to the within named witnesses summoned outside of Tarrant County, or by Duces Tecum, on the dates and at the places hereinafter set forth as follows:

NAME	ADDRESS	Date Summoned	Time Summoned	Mileage	Total Fees
<u>John C. Hubbard</u>	<u>1301 Pennsylvania Ave</u>	<u>12-5-02</u>	<u>4:30pm</u>		

The following named witnesses not summoned for the reasons set opposite their names in accordance with Art. 24.04 C.C.P.

FILED

THOMAS A. WILDER, DIST. CLERK
TARRANT COUNTY, TEXAS

DEC - 6 2002

Time 10:00
By RM Deputy

By John C. Hubbard Deputy

INVESTIGATOR

56

County, Texas

SUBPOENA

DATE OF ISSUE: December 5, 2002

TO ANY SHERIFF OR ANY PROPER PERSON AUTHORIZED BY THE STATE OF TEXAS, GREETINGS:

You are hereby commanded to summon the hereinafter named person or persons to be and personally appear before the below named court of Tarrant County, Texas, at the Tarrant County Justice Center of said County, in the City of Fort Worth, at the below shown date and time, then and there to testify on behalf of the below shown party in the styled and numbered action shown below pending in said Court, and there remain from day to day and from term to term until discharged by said Court.

CASE NO. 0836979A AND 0836985A

THE STATE OF TEXAS

VS.

BARTON RAY GAINES

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IN THE 213th

DISTRICT COURT OF

TARRANT COUNTY, TEXAS

And the said witness is further directed to bring with him and produce in Court the following instrument or instruments in writing or other thing desired as evidence: DUCES TECUM: PLEASE PRODUCE RECORDS FOR ADMISSION, TREATMENT, TESTING AND DIAGNOSIS, ON MICHAEL WILLIAMS - D.O.B.: 09-28-84 FOR ADMISSION & TREATMENT STARTING DATE FEBRUARY 21, 22, 2002.

To appear as a Witness for the STATE. Witness is to appear on DECEMBER 9, 2002 AT 9:00 A.M.

CUSTODIAN OF RECORDS

HARRIS METHODIST HOSPITAL
1301 PENNSYLVANIA AVE.
FORT WORTH, TX 76104

TARRANT COUNTY

Why not include the date they were released too (i.e., the 23rd)? Did they show Mike was released first, thereby contradict Charla reason why she didn't ask Andy to identify me before I was arrested too?

HEREIN FAIL NOT, but of this subpoena make due return, showing how you have executed the same.

A disobedience of this subpoena is punishable by fine not exceeding five hundred dollars, to be collected as fines and costs in other criminal cases.

THOMAS A. WILDER
District Clerk
Tarrant County, Texas

By: Rebecca Wilder
Deputy

(Felony cases. To be read to witness if served in Tarrant County and to be executed by delivering a copy to each witness named outside of Tarrant County. May also be used for duces tecum.)

OFFICER'S RETURN

CAME TO HAND on the 5TH day of December 2002, and executed by reading the within subpoena to and within the hearing of the witnesses, summoned in Tarrant County, and by delivering a true copy of this Writ to the within named witnesses summoned outside of Tarrant County, or by Duces Tecum, on the dates and at the places hereinafter set forth as follows:

NAME	ADDRESS	Date Summoned	Time Summoned	Mileage	Total Fees
<u>James McFarland</u>	<u>1301 Pennsylvania Ave</u>	<u>12-5-02</u>	<u>4:30pm</u>		

The following named witnesses not summoned for the reasons set opposite their names in accordance with Art. 24.04 C.C.P.

FILED

THOMAS A. WILDER, DIST. CLERK
TARRANT COUNTY, TEXAS

DEC - 6 2002

Time 10:00
By RW Deputy

By John C. Hubbard Deputy

57
County, Texas

INVESTIGATOR

IN THE D213 DISTRICT COURT _____ OF TARRANT COUNTY, TEX.
OFFENSE: Attempted Capital Murder
NO. 0836979A & 0836985A THE STATE OF TEXAS VS. Barton Ray Gaines

APPLICATION FOR SUBPOENA

TO THE CLERK OF THE DISTRICT COURTS OF TARRANT COUNTY, TEXAS:

You will please issue subpoena in accordance with law in the above numbered and entitled cause the following witnesses, whose testimony is material to the State or the Defense.

NAME OF WITNESS	VOCATION, ADDRESS AND TELEPHONE NUMBER	COUNTY
<u>Al Smith</u> <u>Custodian of</u> <u>Records</u>	<u>Custodian of Records</u> <u>John Peter Smith Hospital</u>	<u>Tarrant</u>

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

DEC - 5 2002

Time 3:30
By em
Deputy

Duces tecum: Produce records for admission, treatment, testing
& diagnosis on Andrew Horvath 12-16-84 for
admission & treatment starting date February 21, 22,
2002.

THESE WITNESSES ARE TO PERSONALLY APPEAR ON THE 9th DAY OF December
A.D. 2002 AT 9:00 O'CLOCK A.M. AT THE D213 DISTRICT

COURT NO. _____ COURTROOM IN THE TARRANT COUNTY COURTHOUSE IN FORT WORTH, TEX.

Why not include the date they were released too (i.e., the 23rd)? Did they show Mike was released first, thereby contradict Charla reason why she didn't ask Andy to identify me before I was arrested too?

Michael Phil
ATTORNEY FOR STATE, DEFENDANT

Issued 5th day of December 2002 by Rebecca W. Cant

Signature of person serving subpoena if other than officer of the State

SUBPOENA

DATE OF ISSUE: December 5, 2002

TO ANY SHERIFF OR ANY PROPER PERSON AUTHORIZED BY THE STATE OF TEXAS, GREETINGS:

You are hereby commanded to summon the hereinafter named person or persons to be and personally appear before the below named court of Tarrant County, Texas, at the Tarrant County Justice Center of said County, in the City of Fort Worth, at the below shown date and time, then and there to testify on behalf of the below shown party in the styled and numbered action shown below pending in said Court, and there remain from day to day and from term to term until discharged by said Court.

CASE NO. 0836979A & 0836985A

THE STATE OF TEXAS

VS.

BARTON ROY GAINES

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IN THE 213th

DISTRICT COURT OF

TARRANT COUNTY, TEXAS

And the said witness is further directed to bring with him and produce in Court the following instrument or instruments in writing or other thing desired as evidence: DUCES TECUM: PRODUCE RECORDS FOR ADMISSION, TREATMENT, TESTING & DIAGNOSIS ON **ANDREW HORVATH, 12/16/84** FOR ADMISSION AND TREATMENT STARTING DATE **FEBRUARY 21, 22, 2002.**

To appear as a Witness for the STATE. Witness is to appear on DECEMBER 9, 2002 AT 9:00 A.M.

AL SMITH

CUSTODIAN OF RECORDS
JOHN PETER SMITH HOSPITAL

TARRANT COUNTY

Why not include the date they were released too (i.e., the 23rd)? Did they show Mike was released first, thereby contradict Charla reason why she didn't ask Andy to identify me before I was arrested too?

HEREIN FAIL NOT, but of this subpoena make due return, showing how you have executed the same.

A disobedience of this subpoena is punishable by fine not exceeding five hundred dollars, to be collected as fines and costs in other criminal cases.

THOMAS A. WILDER
District Clerk
Tarrant County, Texas

By: Rebecca K. [Signature]
Deputy

(Felony cases. To be read to witness if served in Tarrant County and to be executed by delivering a copy to each witness named outside of Tarrant County. May also be used for duces tecum.)

OFFICER'S RETURN

CAME TO HAND on the 5th day of December, 2002, and executed by reading the within subpoena to and within the hearing of the witnesses, summoned in Tarrant County, and by delivering a true copy of this Writ to the within named witnesses summoned outside of Tarrant County, or by Duces Tecum, on the dates and at the places hereinafter set forth as follows:

NAME	ADDRESS	Date Summoned	Time Summoned	Mileage	Total Fees
AL SMITH	1501 So. Main	12-5-02	4PM		

The following named witnesses not summoned for the reasons set opposite their names in accordance with Art. 24.04 C.C.P.

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

DEC. 6, 2002
Time 10:00
By [Signature] Deputy
Investigator

IN THE D213 DISTRICT COURT OF TARRANT COUNTY, TEX.

OFFENSE: Attempted Capital Murder

NO. 0836979A & 0836985A THE STATE OF TEXAS VS. Barton Ray Gaines

APPLICATION FOR SUBPOENA

TO THE CLERK OF THE DISTRICT COURTS OF TARRANT COUNTY, TEXAS:

You will please issue subpoena in accordance with law in the above numbered and entitled cause in the following witnesses, whose testimony is material to the State or the Defense.

NAME OF WITNESS	VOCATION, ADDRESS AND TELEPHONE NUMBER	COUNTY
-----------------	--	--------

<u>Mary Rivas</u>	<u>Where Found</u>	
-------------------	--------------------	--

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

DEC - 2 2002

Time 3:30
By Rm Deputy

Duces tecum:

THESE WITNESSES ARE TO PERSONALLY APPEAR ON THE 10th DAY OF December
A.D. 2002 AT 12:00 O'CLOCK PM, AT THE D213 DISTRICT
COURT NO. _____ COURTROOM IN THE TARRANT COUNTY COURTHOUSE IN FORT WORTH, TEX.

Michael D. [Signature]
ATTORNEY FOR STATE, DEFENDANT

Issued 5th day of December 2002 by Rebecca [Signature]

Signature of person serving subpoena if other than officer of the State

SUBPOENA

DATE OF ISSUE: December 5, 2002

TO ANY SHERIFF OR ANY PROPER PERSON AUTHORIZED BY THE STATE OF TEXAS, GREETINGS:

You are hereby commanded to summon the hereinafter named person or persons to be and personally appear before the below named court of Tarrant County, Texas, at the Tarrant County Justice Center of said County, in the City of Fort Worth, at the below shown date and time, then and there to testify on behalf of the below shown party in the styled and numbered action shown below pending in said Court, and there remain from day to day and from term to term until discharged by said Court.

CASE NO. 0836979A AND 0836985A

THE STATE OF TEXAS

VS.

BARTON RAY GAINES

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IN THE 213th

DISTRICT COURT OF

TARRANT COUNTY, TEXAS

And the said witness is further directed to bring with him and produce in Court the following instrument or instruments in writing or other thing desired as evidence: NONE

To appear as a Witness for the STATE. Witness is to appear on DECEMBER 10, 2002 AT 12:00 P.M.

MARY RIVAS

WHERE FOUND

HEREIN FAIL NOT, but of this subpoena make due return, showing how you have executed the same.

A disobedience of this subpoena is punishable by fine not exceeding five hundred dollars, to be collected as fines and costs in other criminal cases.

THOMAS A. WILDER
District Clerk
Tarrant County, Texas

By: Rebecca Hilt
Deputy

(Felony cases. To be read to witness if served in Tarrant County and to be executed by delivering a copy to each witness named outside of Tarrant County. May also be used for duces tecum.)

OFFICER'S RETURN

CAME TO HAND on the _____ day of _____, _____, and executed by reading the within subpoena to and within the hearing of the witnesses, summoned in Tarrant County, and by delivering a true copy of this Writ to the within named witnesses summoned outside of Tarrant County, or by Duces Tecum, on the dates and at the places hereinafter set forth as follows:

NAME	ADDRESS	Date Summoned	Time Summoned	Mileage	Total Fees

The following named witnesses not summoned for the reasons set opposite their names in accordance with Art. 24.04 C.C.P.

County, Texas
By _____ Deputy

IN THE D213 DISTRICT COURT OF TARRANT COUNTY, TEX
OFFENSE: Attempted Capital Murder
NO. 0836979A & THE STATE OF TEXAS VS. Barton Ray Gaines
0836985A

APPLICATION FOR SUBPOENA

TO THE CLERK OF THE DISTRICT COURTS OF TARRANT COUNTY, TEXAS:

You will please issue subpoena in accordance with law in the above numbered and entitled cause the following witnesses, whose testimony is material to the State or the Defense.

NAME OF WITNESS	VOCATION, ADDRESS AND TELEPHONE NUMBER	COURT
<u>Tracy Koller</u>	<u>Tarrant County MHR</u> <u>3840 Hulen Towers North</u> <u>FW TX 76107</u>	<u>Tarrant</u>

FILED
THOMAS A. WILDER, DIST. CLERK
TARRANT COUNTY, TEXAS
DEC - 5 2002
3:30
Time
By
Deputy

Duces tecum: All records for Barton Ray Gaines
dob 10-25-82.

THESE WITNESSES ARE TO PERSONALLY APPEAR ON THE 9th DAY OF December
A.D. 2002 AT 9:00 O'CLOCK A.M., AT THE D213 DIST
COURT NO. _____ COURTROOM IN THE TARRANT COUNTY COURTHOUSE IN FORT WORTH, TE

Michael D. [Signature]
ATTORNEY FOR STATE, DEFENDANT

Issued 5th day of December 2002 by Rebecca H. [Signature]

Signature of person serving subpoena if other than officer of the State

IN THE 213th DISTRICT COURT OF TARRANT COUNTY, TEXAS
OFFICE: Aggravated Robbery - D.W.
NO. 0836985A THE STATE OF TEXAS VS. BARTON RAY GAINES

APPLICATION FOR SUBPOENA

TO THE CLERK OF THE DISTRICT COURTS OF TARRANT COUNTY, TEXAS:

You will please issue subpoena in accordance with law in the above numbered and entitled cause for the following witnesses, whose testimony is material to the State or the Defense.

NAME OF WITNESS VOCATION, ADDRESS AND TELEPHONE NUMBER COUNTY

mini Parks Wherever Found

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

DEC 10 2002

Time 3:40
By PO Deputy

Duces tecum:

~~mini Parks~~ Barton Ray Gaines

THESE WITNESSES ARE TO PERSONALLY APPEAR ON THE 11th DAY OF December

A.D. 2002 AT 1 O'CLOCK P.M. AT THE 213th DISTRICT

COURT NO. COURTROOM IN THE TARRANT COUNTY COURTHOUSE IN FORT WORTH, TEXAS.

Robert Thomas
ATTORNEY FOR STATE, DEFENDANT

PHONE NUMBER

Issued 10th day of December 2002 by Rebecca H. Quint

Signature of person serving subpoena if other than officer of the State

SUBPOENA

DATE OF ISSUE: December 10, 2002

TO ANY SHERIFF OR ANY PROPER PERSON AUTHORIZED BY THE STATE OF TEXAS, GREETINGS:

You are hereby commanded to summon the hereinafter named person or persons to be and personally appear before the below named court of Tarrant County, Texas, at the Tarrant County Justice Center of said County, in the City of Fort Worth, at the below shown date and time, then and there to testify on behalf of the below shown party in the styled and numbered action shown below pending in said Court, and there remain from day to day and from term to term until discharged by said Court.

CASE NO. 0836985A

THE STATE OF TEXAS

VS.

BARTON RAY GAINES

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IN THE 213th

DISTRICT COURT OF

TARRANT COUNTY, TEXAS

And the said witness is further directed to bring with him and produce in Court the following instrument or instruments in writing or other thing desired as evidence: NONE

To appear as a Witness for the STATE. Witness is to appear on DECEMBER 11, 2002 AT 1:00 P.M.

MIMI PARKS
WHEREVER FOUND

HEREIN FAIL NOT, but of this subpoena make due return, showing how you have executed the same.

A disobedience of this subpoena is punishable by fine not exceeding five hundred dollars, to be collected as fines and costs in other criminal cases.

THOMAS A. WILDER
District Clerk
Tarrant County, Texas

By: Rebecca W. [Signature]

Deputy

(Felony cases. To be read to witness if served in Tarrant County and to be executed by delivering a copy to each witness named outside of Tarrant County. May also be used for duces tecum.)

OFFICER'S RETURN

CAME TO HAND on the _____ day of _____, _____, and executed by reading the within subpoena to and within the hearing of the witnesses, summoned in Tarrant County, and by delivering a true copy of this Writ to the within named witnesses summoned outside of Tarrant County, or by Duces Tecum, on the dates and at the places hereinafter set forth as follows:

NAME	ADDRESS	Date Summoned	Time Summoned	Mileage	Total Fees

The following named witnesses not summoned for the reasons set opposite their names in accordance with Art. 24.04 C.C.P.

_____, County, Texas
By _____ Deputy

213th

IN THE CRIMINAL DISTRICT COURT OF TARRANT COUNTY, TEXAS
OFFENSE: Aggravated Robbery with a deadly weapon
NO. 0836985A THE STATE OF TEXAS VS. BARTON RAY GAINES

APPLICATION FOR SUBPOENA

TO THE CLERK OF THE DISTRICT COURTS OF TARRANT COUNTY, TEXAS:

You will please issue subpoena in accordance with law in the above numbered and entitled cause the following witnesses, whose testimony is material to the State or the Defense.

NAME OF WITNESS	VOCATION, ADDRESS AND TELEPHONE NUMBER	COUNTY
CAPT MARY Hendrix	Tarrant County Sheriff's Dept	

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

DEC 10 2002

Time 3:40
By [Signature] Deputy

Duces tecum:

Disciplinary records for Barton Ray Gaines
DOB 10-25-82 CID # 659420 0579723

THESE WITNESSES ARE TO PERSONALLY APPEAR ON THE 11th DAY OF December
A.D. 2002 AT 1 O'CLOCK P.M. AT THE 213th CRIMINAL DISTRICT
COURT NO. 8 COURTROOM IN THE TARRANT COUNTY COURTHOUSE IN FORT WORTH, TEXAS

[Signature]
ATTORNEY FOR STATE, DEFENDANT

Issued 10th day of December 2002 by [Signature]

Signature of person serving subpoena is other than officer of the State

SUBPOENA

DATE OF ISSUE: December 10, 2002

TO ANY SHERIFF OR ANY PROPER PERSON AUTHORIZED BY THE STATE OF TEXAS, GREETINGS:

You are hereby commanded to summon the hereinafter named person or persons to be and personally appear before the below named court of Tarrant County, Texas, at the Tarrant County Justice Center of said County, in the City of Fort Worth, at the below shown date and time, then and there to testify on behalf of the below shown party in the styled and numbered action shown below pending in said Court, and there remain from day to day and from term to term until discharged by said Court.

CASE NO. 0836985A

THE STATE OF TEXAS

VS.

BARTON RAY GAINES

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IN THE 213th

DISTRICT COURT OF

TARRANT COUNTY, TEXAS

And the said witness is further directed to bring with him and produce in Court the following instrument or instruments in writing or other thing desired as evidence: DUCES TECUM: DISCIPLINARY RECORDS FOR BARTON RAY GAINES, D.O.B. 10/25/82, CID# 0579723.

To appear as a Witness for the STATE. Witness is to appear on DECEMBER 11, 2002 AT 1:00 P.M.

CAPT. MARY HENDRIX

TARRANT COUNTY SHERIFF'S DEPT.

HEREIN FAIL NOT, but of this subpoena make due return, showing how you have executed the same.

A disobedience of this subpoena is punishable by fine not exceeding five hundred dollars, to be collected as fines and costs in other criminal cases.

THOMAS A. WILDER
District Clerk
Tarrant County, Texas

By: Rebecca W. Q. A.
Deputy

(Felony cases. To be read to witness if served in Tarrant County and to be executed by delivering a copy to each witness named outside of Tarrant County. May also be used for duces tecum.)

OFFICER'S RETURN

CAME TO HAND on the _____ day of _____, _____, and executed by reading the within subpoena to and within the hearing of the witnesses, summoned in Tarrant County, and by delivering a true copy of this Writ to the within named witnesses summoned outside of Tarrant County, or by Duces Tecum, on the dates and at the places hereinafter set forth as follows:

NAME	ADDRESS	Date Summoned	Time Summoned	Mileage	Total Fees

The following named witnesses not summoned for the reasons set opposite their names in accordance with Art. 24.04 C.C.P.

_____, County, Texas
By _____ Deputy

CASE NO. 0836979A/08 36985A

THE STATE OF TEXAS

vs.

Barton Ray Gaines

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IN THE 213th

DISTRICT COURT

TARRANT COUNTY, TEXAS

NOTICE OF APPEAL

TO THE HONORABLE JUDGE OF SAID COURT:

Comes now, Barton Ray Gaines in the above styled
and numbered cause and gives this his Notice of Appeal to the Court of _____
Appeals of Texas from the judgments heretofore rendered against him in the
above-styled and numbered cause.

FILED
THOMAS A. WILDER, DIST. CLERK
TARRANT COUNTY, TEXAS
DEC 11 2002

Time 1245
By ST Deputy

Barton Gaines
DEFENDANT

OR

ATTORNEY FOR DEFENDANT

BAR CARD # _____

CASE NO. 083697.9 A / 0836985A

THE STATE OF TEXAS

vs.

Barton Ray Gaines

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IN THE 213th

DISTRICT COURT _____

TARRANT COUNTY, TEXAS

MOTION FOR FREE REPORTER'S RECORD AND
AFFIDAVIT OF INABILITY TO PAY FOR
COUNSEL AND REPORTER'S RECORD

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

DEC 12 2002

Time _____
By 29 Deputy

TO THE HONORABLE JUDGE OF SAID COURT:

Comes now, Barton Ray Gaines, Appellant in the above styled and numbered cause and submits this motion for a free Reporter's Record for the appeal pursuant to Tex. R. App. P. 20.2, stating that he/she is too poor to pay for or otherwise obtain a Reporter's Record for the appeal or to give security therefor either in whole or in part.

WHEREFORE, PREMISES CONSIDERED, Appellant prays that the Motion be granted and that the official Court Reporter thereof be ordered to prepare a Reporter's Record in accordance with Tex. R. App. P. 20.2.

ATTORNEY FOR APPELLANT

Comes now the Defendant in the above styled and numbered cause, and states to the Court upon his oath that he is without counsel of his own selection to represent him herein, and is unable to obtain a Reporter's Record for Appeal in this cause because he is too poor to pay for same, and is unable to give security therefor in perfecting the appeal before the Court of _____ Appeals of Texas.

Barton Gaines
APPELLANT

Sworn to and Subscribed to before me this 12 day of December, 2002.

Silvers
DEPUTY DISTRICT CLERK
TARRANT COUNTY, TEXAS

CASE NO. 0836979A / 0836985A

THE STATE OF TEXAS

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IN THE 213th

VS.

§

DISTRICT COURT

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TARRANT COUNTY, TEXAS

Barton Ray Gaines

ORDER APPOINTING COUNSEL FOR THE APPEAL
AND
ORDER FOR COURT REPORTER TO PREPARE REPORTER'S RECORD

On this day, it being made known and appearing to the Court that the Defendant is without counsel of his own selection to represent him herein, and that he is too poor to employ counsel, or give security therefor, to represent him herein and the Defendant having requested that an attorney be appointed to represent him in the above styled and numbered cause.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED by the Court that Rayan Byrum, a regularly licensed and practicing attorney is hereby appointed to represent the Defendant as his attorney, and said Attorney is hereby authorized to proceed to perform the duties of the Attorney for the defendant in this cause.

And on this day, it appearing to the Court that the Defendant in the above styled and numbered cause, has given his/her Notice of Appeal to the Court of Appeals of Texas. And it being made known that the Defendant herein has filed his/her affidavit, stating the he/she is too poor to pay the Court Reporter for a Reporter's Record for such appeal or give security therefor.

The Court is of the opinion that the Defendant is entitled to the relief as prayed for.

It is therefore the ORDER of this Court that the Official Court Reporter of this Court, Steve Sibilla, prepare and furnish a Reporter's Record to be used in perfecting the appeal in this cause.

Kay Miller (Vice Dire)

[Signature]
PRESIDING JUDGE

12/12/02
DATE SIGNED

DEC 20 2002

Time _____
By 12:20
IN THE 213TH _____ Deputy

Cause Number 0836985A

BARTON RAY GAINES

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VS.

§

DISTRICT COURT OF

§

THE STATE OF TEXAS

§

TARRANT COUNTY, TEXAS

DESIGNATION OF THE RECORD ON APPEAL

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES, RAYMOND CAMARILLO, Defendant in the above styled and numbered cause, by and through his attorney of record, *WM. REAGAN WYNN*, and designates that the following instruments, documents, and transcriptions of proceedings be included in the record on appeal:

1. All materials required by Rule 34, Texas Rules of Appellate Procedure;
2. The affidavits or arrest warrants (with return), and complaints, first charging Defendant, if any;
3. All bills of exception and bystander's bills of exception filed by or on behalf of the Defendant, if any;
4. All trial and pre-trial briefs and motions filed by or on behalf of the Defendant, as well as the Court's orders or responses to them, including, but not limited to, the following:
 - a. All Motions and amended motions for new trial, if any;
 - b. Motions for settings;
 - c. Defendant's trial brief;
 - d. Motions for discovery;
 - e. Motions to suppress;

5. Any statements of the Defendant, or any witness, which were subject of dispute at trial or use for cross-examinations at the hearing on Defendant's Motion for New Trial -- or at any other hearing in this case, if any;

6. The originals of all exhibits offered or admitted at trial or any pre-trial or post-trial hearing, if any;

7. The statement of facts - including both the guilt/innocence phase and punishment phase of the trial;

8. All voir dire proceedings including the State, the defense, and any conversations at the bench with the trial court;

9. The jury arguments;

10. The transcriptions of the Court Reporter's notes from all pre-trial and post-trial hearings, including the hearing on any Motions to Suppress Evidence and Defendant's Motion for New Trial, if any;

11. Objections to the Court's charge, whether oral or written, and orders of the Court in response;

12. All requested jury instructions and orders of the court in response;

13. The jury list and the juror information cards or true copies of them, reflecting the respective strikes of the State and of the Defendant;

14. All jury notes, the Court responses, and any objections and requests of counsel, as well as the court's responses;

15. This designation of record on appeal;

16. Any and all motions by the Defendant to correct the record and orders of the Court in response;

17. The transcriptions of any oral arguments on the briefs;

18. The transcription of any hearing on the approval of the record;
19. All pleadings filed by the Defendant and by the State of Texas, and all rulings of the Court thereon;
20. All docket entries made by the Court;
21. The testimony of all witnesses during all pre-trial hearings, and the hearings on guilt/innocence and punishment;
22. All hearings held outside the presence of the jury;
23. All communications between the trial court and the Defendant, counsel for the Defendant, and counsel for the State;
24. The Court's charge submitted by the Court to the Jury during the hearings on guilt/innocence and punishment;
25. The judgment and sentence of the Court;
26. Defendant's Motion for New Trial, if any;
27. A transcription of all testimony and evidence introduced at the hearing on the Defendant's Motion for New Trial and the order of the Court with respect thereof, if any;
28. the Defendant's Notice of Appeal;
29. The Appeal Bond;
30. The order of the Court approving the record in this cause;
31. The briefs of the appellant and the State;
32. All applications for subpoenas by both the State and the Defendant, including any notations as to attempts to serve and the actual returns.

WHEREFORE, PREMISES CONSIDERED, Defendant respectfully prays that the Clerk and the Court Reporter of this Court make and prepare as part of the record in the appeal of this cause true and correct copies of all matters stipulated above, and make them a part of the record in the appeal of this cause.

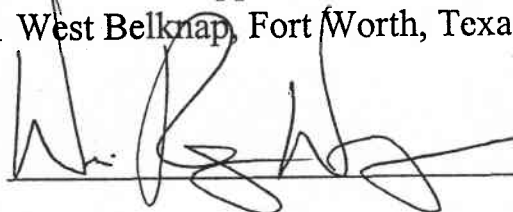
Respectfully submitted,



WM. REAGAN WYNN
State Bar Number: 00797708
THE KEARNEY LAW FIRM
Wells Fargo Building
505 Main Street, Suite 220
Fort Worth, Texas 76102
(817) 336-5600
(817) 336-5610 (fax)

CERTIFICATE OF SERVICE

On this the 20th day of December, 2002, I hereby certify that a true and correct copy of the above and foregoing Designation of the Record on Appeal was delivered to Charles Mallin, Assistant Deputy Chief of the Appellate Section of the Tarrant County District Attorney's Office, 401 West Belknap, Fort Worth, Texas 76196.



WM. REAGAN WYNN

Cause Number 0836985A

BARTON RAY GAINES

VS.

THE STATE OF TEXAS

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IN THE 213TH

DISTRICT COURT OF

TARRANT COUNTY, TEXAS

AMENDED DESIGNATION OF THE RECORD ON APPEAL

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES, BARTON GAINES, Defendant in the above styled and numbered cause, by and through his attorney of record, **WM. REAGAN WYNN**, and designates that the following instruments, documents, and transcriptions of proceedings be included in the record on appeal:

1. All materials required by Rule 34, Texas Rules of Appellate Procedure;
 2. The affidavits or arrest warrants (with return), and complaints, first charging Defendant, if any;
 3. All bills of exception and bystander's bills of exception filed by or on behalf of the Defendant, if any;
 4. All trial and pre-trial briefs and motions filed by or on behalf of the Defendant, as well as the Court's orders or responses to them, including, but not limited to, the following:
 - a. All Motions and amended motions for new trial, if any;
 - b. Motions for settings;
 - c. Defendant's trial brief;
 - d. Motions for discovery;
 - e. Motions to suppress;
- FILED**
THOMAS A. WILDER, DIST. CLERK
TARRANT COUNTY, TEXAS

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

JAN 3 2003

Time 10:20
By [Signature] Deputy

5. Any statements of the Defendant, or any witness, which were subject of dispute at trial or use for cross-examinations at the hearing on Defendant's Motion for New Trial -- or at any other hearing in this case, if any;

6. The originals of all exhibits offered or admitted at trial or any pre-trial or post-trial hearing, if any;

7. The statement of facts - including both the guilt/innocence phase and punishment phase of the trial;

8. All voir dire proceedings including the State, the defense, and any conversations at the bench with the trial court;

9. The jury arguments;

10. The transcriptions of the Court Reporter's notes from all pre-trial and post-trial hearings, including the hearing on any Motions to Suppress Evidence and Defendant's Motion for New Trial, if any;

11. Objections to the Court's charge, whether oral or written, and orders of the Court in response;

12. All requested jury instructions and orders of the court in response;

13. The jury list and the juror information cards or true copies of them, reflecting the respective strikes of the State and of the Defendant;

14. All jury notes, the Court responses, and any objections and requests of counsel, as well as the court's responses;

15. This designation of record on appeal;

16. Any and all motions by the Defendant to correct the record and orders of the Court in response;

17. The transcriptions of any oral arguments or the briefs;

18. The transcription of any hearing on the approval of the record;
19. All pleadings filed by the Defendant and by the State of Texas, and all rulings of the Court thereon;
20. All docket entries made by the Court;
21. The testimony of all witnesses during all pre-trial hearings, and the hearings on guilt/innocence and punishment;
22. All hearings held outside the presence of the jury;
23. All communications between the trial court and the Defendant, counsel for the Defendant, and counsel for the State;
24. The Court's charge submitted by the Court to the Jury during the hearings on guilt/innocence and punishment;
25. The judgment and sentence of the Court;
26. Defendant's Motion for New Trial, if any;
27. A transcription of all testimony and evidence introduced at the hearing on the Defendant's Motion for New Trial and the order of the Court with respect thereof, if any;
28. the Defendant's Notice of Appeal;
29. The Appeal Bond;
30. The order of the Court approving the record in this cause;
31. The briefs of the appellant and the State;
32. All applications for subpoenas by both the State and the Defendant, including any notations as to attempts to serve and the actual returns.

WHEREFORE, PREMISES CONSIDERED, Defendant respectfully prays that the Clerk and the Court Reporter of this Court make and prepare as part of the record in the appeal of this cause true and correct copies of all matters stipulated above, and make them a part of the record in the appeal of this cause.

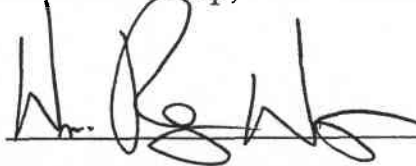
Respectfully submitted,



WM. REAGAN WYNN
State Bar Number: 00797708
THE KEARNEY LAW FIRM
Wells Fargo Building
505 Main Street, Suite 220
Fort Worth, Texas 76102
(817) 336-5600
(817) 336-5610 (fax)

CERTIFICATE OF SERVICE

On this the 3rd day of January, 2003, I hereby certify that a true and correct copy of the above and foregoing Designation of the Record on Appeal was delivered to Charles Mallin, Assistant Deputy Chief of the Appellate Section of the Tarrant County District Attorney's Office, 401 West Belknap, Fort Worth, Texas 76196.



WM. REAGAN WYNN

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

DEC 20 2002

Time 12:20
By lv Deputy
IN THE 213TH

Cause Number 0836985A

BARTON RAY GAINES

VS.

THE STATE OF TEXAS

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DISTRICT COURT OF

TARRANT COUNTY, TEXAS

MOTION FOR NEW TRIAL

The above referenced Defendant, through the undersigned attorney, pursuant to Rule 21.1 and Rule 21.4(a), Texas Rules of Appellate Procedure, moves the Court to grant him a new trial for the following reason:

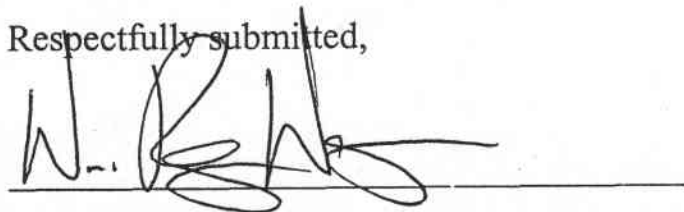
I.

The verdicts are contrary to the law and evidence.

II.

This motion is filed as a supplement to any previously filed motion and should be considered amended by any subsequently timely filed motion for new trial.

Respectfully submitted,



WM. REAGAN WYNN
State Bar Number: 00797708
THE KEARNEY LAW FIRM
Wells Fargo Building
505 Main Street, Suite 220
Fort Worth, Texas 76102
(817) 336-5600
(817) 336-5610 (fax)

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing Motion for New Trial has been hand-delivered to the office of Tim Curry, Tarrant County Criminal District Attorney, 401 West Belknap, Fort Worth, Texas 76196, on this 20th day of December, 2002.

A handwritten signature in black ink, appearing to read "Wm. Reagan Wynn", is written over a horizontal line.

WM. REAGAN WYNN

THE STATE OF TEXAS

Vs.

BARTON RAY GAINES

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In The 213TH

District Court

Tarrant County, Texas

ORDER APPOINTING SUBSTITUTE COUNSEL FOR THE APPEAL

On this day, it being made known and appearing to the Court that the Defendant is without counsel of his own selection to represent him herein, and that he is too poor to employ counsel, or give security therefor, to represent him herein and the Defendant having requested that an attorney be appointed to represent him in the above styled and numbered cause.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED by the Court that Whitney Wiedeman, a regularly licensed and practicing attorney is hereby appointed as substitute counsel to represent the Defendant as his attorney, and said Attorney is hereby authorized to proceed to perform the duties of the Attorney for the defendant in this cause.

Robert Hill
Presiding Judge

4/10/03
Date Signed



TARRANT COUNTY

Thomas A. Wilder

District Clerk

April 10, 2003

WHITNEY WIEDEMAN
P. O. BOX 9412
FORT WORTH, TEXAS 76147

Re: BARTON RAY GAINES vs: The State of Texas

CASE NO. 0836979A AND 0836985A

OFFENSE: AGGRAVATED ROBBERY-DW
AGGRAVATED ROBBERY-DW

DATE OF SENTENCE: DECEMBER 12, 2002

SENTENCE: 35 YEARS IDTDCJ
35 YEARS IDTDCJ

Dear MR. WIEDEMAN:

Please be advised that you have been appointed as substitute counsel to represent the above referenced defendant on appeal.

Thank you for your attention to this matter.

Very truly yours,

Thomas A. Wilder
District Clerk
Tarrant County, Texas

By: 
NANCY GILLILAND

CC: BARTON RAY GAINES

213TH District Court

Certified True Copy

THE STATE OF TEXAS

§

COUNTY OF TARRANT

§

I, Thomas A. Wilder, Clerk of the District Courts of Tarrant County, Texas, do hereby certify that the documents contained in this record to which this certification is attached are all of the documents specified by Texas Rule of Appellate Procedures 34.5(a) and all other documents timely requested by a party to this proceeding under Texas Rule of Appellate Procedure 34.5(b) in Cause Number **0836985A**, styled The State of Texas vs **BARTON RAY GAINES** in said court.

GIVEN UNDER MY HAND AND SEAL at my office in Tarrant County, Texas, this 17th, day of April, A.D. 2003.

THOMAS A. WILDER
DISTRICT CLERK
TARRANT COUNTY, TEXAS

By Nancy Gilliland
NANCY GILLILAND
Deputy District Clerk