

TEXAS COURT OF CRIMINAL APPEALS

Ex parte James Rebector

Ex parte Rebector · No. No. 96CR1186; No. 1998-CR-3488-W3 · Decided August 11, 2015

SUMMARY

This document is a compilation of records concerning James Rebector's Texas criminal convictions and subsequent post-conviction habeas corpus proceedings. It includes a 1996 judgment of conviction in Bexar County for possession of a controlled substance, as well as the State's responses to habeas corpus applications concerning that conviction and a later possession-with-intent-to-deliver conviction.

CASE DETAILS

COURT	Texas Court of Criminal Appeals
JURISDICTION	Texas
DECIDED	August 11, 2015
DOCKET	No. 96CR1186; No. 1998-CR-3488-W3
DISPOSITION	writ_denied
PROCEDURAL POSTURE	Post-conviction application for writ of habeas corpus under Texas Code of Criminal Procedure article 11.07.
PRECEDENTIAL VALUE	Unclear from the document text; the document is identified as per curiam and contains no reporter citation.
PARTIES	James Rebector v. The State of Texas

TOPICS

- state post-conviction relief
- habeas corpus
- post-conviction relief
- criminal procedure

PRACTICE AREAS

- criminal procedure
- post-conviction relief
- habeas corpus

QUESTIONS PRESENTED

- Whether James Rebector was entitled to post-conviction habeas corpus relief.

HOLDINGS

- The Court of Criminal Appeals denied the requested habeas relief.

FACTUAL BACKGROUND

The record includes a 1996 Bexar County judgment convicting James Rebector, upon a plea of nolo contendere before the court, of possession of a controlled substance in an amount less than one gram. The judgment imposed a two-year state-jail sentence, suspended imposition of confinement, and placed Rebector on five years of community supervision. The record also contains materials concerning a later conviction in cause number 1998-CR-3488-W3 for possession with intent to deliver, for which punishment was assessed at thirty-five years' confinement.

PROCEDURAL HISTORY

James Rebector sought post-conviction habeas relief in the district court in connection with Texas criminal convictions. The district court proceedings included the State's written responses recommending denial of relief, after which the matter was presented to the Texas Court of Criminal Appeals.

DISPOSITION

writ_denied

OPINION

PER CURIAM.

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7ddds %>M& ^ZdeddMcaSt Is r^oi^ Wy7 *•"***<• £* ^^^N^w^rf-* ft j-^ . JUDGMENT' OF CONVICTION; - PLEA OF. NOLO CONTENDERE BEFORE THE COURT STATE JAIL FELONY SENTENCE SUSPENDED PLACEMENT ON COMMUNITY SUPERVISION THE STATE OF TEXAS*"" NO. 96CR1186 VS •',.^if- •W JAMES REBECTOR BEXAR COUNTY, TEJfAS JUDGE PRESIDING: JUDGE SUSAN D. REED DATE OF JUDGMENT: NOV 1 2 1996 APPEARANCES "•' KEVIN, COLLINS APPEARANCES FOR STATE: •MLXSS CHRISTIAN • FOR DEFENDANT: MAURICE ANTHONY oTFkNsITcONVIGTED OF: POSH CS~PG 1 LESS THAN 1_Gr£R 48:uii5 cb;'hsc DATE OF CONVICTION: JQ.Q/j.Qi DEGREE CF'OFFENSE: STATE JAIL FELONY DATE OFFENSE COMMITTED: 12-11-95.*#</jP- irfjr CHARGING INSTRUMENT: INDICTMENT tvC.

I^EA_IQ_COURT: NOLO CONTENDERE VERDICT OF COURT: GUILTY TERNs OF PLEA AGREEMENT: 2 YRS TDCJSJD; 5 YRS SUPERVISION; \$1,000.00 FINE PLEA TO FINDING ON ENHANCEMENT: N/A ENHANCEMENT: N/A FINDING ON SFECIAL ISSUE(S):• H/A ' •DATIL SENTENCE SUSPENDED: 11-05-96 \ DATE TO COMMENCE:' UPON ADMISSION SENTENCE OF CONFINEMENT (STATE JAIL): 2 YRS TDCJ-SJD AND A FINE OF \$ 1,000.00 TDCJSJD UPFRONT TIME: ONE (I.)

YEAR CONCURRENT UNLESS OTHERWISE SPECIFIED: PERIOD OF SUPERVISION: 5 YRS COSTS: \$ 126.50 0,1 ttle 3.TH OF October. 1996 _.. 'ttre-«wyg-,ra,,^—^—arra-ernrxt-rea— CaQ'Se" lii-^-.^'jiJibAd-Bad—»=-!-i-«5'—c~-'--sfJ-T and the State, appeared by the attorney stated pi-w ancj the Defendant -and the Defendant's attorney, were also- present. 'Thereupon, both" hide's.announced ready for trial, and the Defendant, Defendant's attorney; and the State's attorney agreed m open court and in writing to waive a jury in the trial of.this cause and to submit it to the Court., The Court consented to the waiver of a iury herein The Defendant further waived the reading of the indictment and, upon being'asked by the Court as to how the Defendant pleaded, entered a plea of NOLn CONTENDERE ' N- to _£OSS.

CS PG 1 LESS THAN 1 GRAM '_JV_ IHU».~»iJniMUttK& v, to Thereupon, the Defendant was admonished by the Court of the consequences of said plea and' it appearing to the Court that the Defendant was competent to stand trial.and that, the Defendant was not influenced in making said plea by any consideration of fear or by any persuasion prompting a confession of guilt, the free and voluntary plea of NOLO CONTENDERE was received by the Court and is now entered of record in the minutes of the Court as the ploa of the Defendant. -The Court, having heard' all

evidence from the State and Defendant, n.Kl having heard argument of counsel for both parties, found that there 'was sufficient evidence to support the Defendant's plea and -found stated above. •» the.

Defendant ' guilty of the offense £- ~\$e S4M& ^>/^^h^oA/t£^h^cf4 ^f*&£-3#w (jsd?om) (5) i - •:tT*iiw^wt'g(i» jih.i.ji«^-F.^urtiw^""«K-yjf- 'L^VJ.> 'yi" ""^mmmmmmmmr «e; l "rl/f f if im # NO. 96CR11B6_ STSATE OF TEXAS VS..OAJifi? RKflectQR <?I- I It is, therefore, ORDERED, ADJUDGED AND DECREED.by the Court ^. tha ^dajejdant^l., miiltv of the offense stated above, and, the Court having reviewed the presentence If %•• invcsUcation report, the punis^t is.fixed as determined by the Court, and the.

State of Texafdo have and recover of ^a% defendant all court costs in this prosecution expended if for which execution will issue.,-. •". • If- CLERKS FEES 40.00 CRIME VICTIM FEE 45.00 APPOINTED INVESTIGATOR 0.00 lit 3.50 JCPTF 1.00 CRIMINAL JUSTICE FEE 20.06 LEOEF 0.00 CRIME STOPPERS FEE 2.00 FINE 1>000.00 JURY FEE •\$»••< • 0.00 RECORDS MGT FEE. 10.00 CRT HSE SEC FEE - 3.00 APPOINTED ATTY m VIDEO 0.00 m- GRAND TOTAL 1,126.50 5TH OF November, 1996 the Court, after due consideration, If However, on the is of the opinion and so finds that the ends of justice, and the best interest of the p"folic i:id lh" Defendant will be subserved if the imposition of the sentence in this cause be suspended*and the Defendant is placed on community supervision under the direction of this'Court.

It is therefore ORDERED by the Court that the imposition of the sentence of confinement ' 'in this cause is hereby suspended, and the Defendant is placed on corui ' supervision community rnt..5c YRS.. „ for vp«? __ __ -subject / ""J^ to the conditions of supervision imposed by the Court and served on the Defendant.

The Court thereupon fully advised the defendant as to the law regarding the filing of Motions for New Trial, Motions in Arrest of Judgment, and Notice of Appeal. i 7 - i;J.i '-••:I -i,...;.... V"-...., -r ' t Yl';.-f- SIGNED'and EMTERED-of_.Rec.ard -this:• \j.:<.:; 1 ';;•; I.' I'ipl i i */*,>-*>- • """" r"" Notice of Appeal: -. • <•••.-^ JUDGE •f:.'••?••• -;i 'On <:•• 4a SUSAN D. REED \\j Prepared by ^ 09171""*" 144TH DISTRICT COURT BEXAR COUNTY, TEXAS (JSD70B) liSRiMllfiffilta DC96CR1186 "^S^lIIiRSiSHailHMMiHISM »**s.

3n trje name anb brj tljc auttjoritu of OATH OF OFFICE I, SUSAN D. REED;, do solemnly swear (or affirm), that I will faithfully execute the duties of the office of DISTRICT JUDGE, UJXTH DISTRICT OF THE'STATE OF TEXAS-;. ofthe State ofTexas, and will to the best ofmy ability preserve, protect, and defend the Constitu tion and laws of the United States and of this State; and 1furthermore solemnly swear (or affirm), that I have not directly nor indirectly paid, offered, or promised to pay, contributed, nor promised to contribute any money, or valuable thing, or promised any public office or employment, asa reward for the giving or withholding avote at the election at which 1was elected.

So help me God. '• J&JSfeW.i SUSAN D. REED SWORN TO and Subscribed before me by SUSAN D. REED • £££! on this /- day of M^H^^^I 19ZL7. fee ••.&• Notary Public, State of Texas UNITED STATES DISTRICT JUDGE (Seal) Notary Printed Name Wi% •9 WESTERN DISTRICT OF TEXAS a Commission Expiration Date 1^1 In the name and by the authority of The State of Texas OATH.OFFICE ^C* «CU(, •^>^s do solemnly.iwcnr (or SUSAN D. REED.. affirm), that I will faithfully execute the duties of the office of of the DISTRICT JUDCK 144th-DISTRliUjCIQURT 4« State of Texas, and will to the best of my ability preserve, protect, nnd defend the Comllllullon and laws of the United States and of this Stntc, so help mc God.

I 'J W"y •-.^: AM D. REED on this SWORN TO and Subscribed before me by. JfTYjCE- _MCCLAY- 2nd (iay of January 19,Q1... (Infix fyiWcw SLftjfnHtfc of Person AdtniWsicring Oath «s ^>, -:-'C!.:6. McCLAr '> rr-.-v.^'t1' N',,ary Publ!c Printcd Name Si.5 fo of Tews Comm [ixp. Juno 27. 1992 __? •_£ 4 Title (#).'Tee Raverne Side Cot instructions -€™> "H* r* •- iN1-tj^¥idr,l •'X r-"5 In the name and by the authority of,?S5Rw*:to&' The StateWFexas IS&r *# "ir t J OATH OF OFFICE -_& *" n JANS-6.19 ••VijJOfyOOa-.'1 - su'san d. ri:i:d - <do solemnly swear (or affirm), that^l wi II faithfully executeithe,duties of the^office of DISTRICT JUDGE - 144th DISTRICT-COOM-Jtr^'• T *' of th e State of Texas, and will to the best of my ability preserve, protect, and defend the CConstitution and laws of the United States"and of"this State, so help me God il_--_____t_i <' & t SWO.R/M TO and subscribed before me by affiant on this / ""day ol#1 19 Ld.f- '*, V * i>- Signature jofPerson,Administering Oatfri f Ji-ir &*•' lt«4l k\r <, *v Printed Nama v J. 5 'r o j-.

JT y / V*™^iUA-leiMvL lips H&e:*. >li_&S - 4& K-;-(X; 0/ \?*- >*w5* **aHgp c's^f>? <~^* kre Reverse."Side lor Trutrvalons \$ ^*V -iTr igj> I^S&ft '.V, i?... •^Sf€©Pt NO. 96-CR-1186-W1 IN THE DISTRICT COURT EX PARTE: 144th JUDICIAL DISTRICT JAMES REBECTOR, § APPLICANT § BEXAR COUNTY, TEXAS TO THE HONORABLE JUDGE OF THE 144th JUDICIAL DISTRICT COURT: Now comes the State of Texas through its Criminal District Attorney, Susan D. Reed, and files this Response to the Applicant's petition for writ of habeas corpus.

I. The Applicant, James Rebector, has filed this petition for apost-conviction writ of habeas corpus pursuant to Article 11.07 §3(a), Tex. Code Crim. Proc. Ann. (Vernon Supp. 2000). The State files this mandatory answer pursuant to Art. 11.07 §3 (b), supra. II.

The Applicant was convicted of committing the offense of Possession Controlled Substance in cause Number 96-CR-l 186 and punishment was assessed at confinement for two (2) years. His petition for writ of habeas corpus was filed on September 8, 1999.

The State was served by the District Clerk of Bexar County on September 15, 1999. III. The State generally and specifically denies each and every allegation of fact made by the Applicant and

demands strict proof of the same. 'i ••'••. •.1 i!) CILKCLUSION Wherefore, premises considered, the State would urge that the trial court enter an order recommending that relief be denied.

Respectfully submitted, SUSAN D. REED Criminal District Attorney Bexar County, Texas
^LH^____-^1^^h== Edward F. Shaughnessy I Assistant Criminal District Attorney* Bexar County, Texas Bexar County Justice Center 300 Dolorosa San Antonio, Texas 78205-3030 (210)335-2414 FAX NO. (210) 220-2436 State Bar No. 18134500 Attorneys for the State \P" r.F.HTTFICAT~ OF SERVICE I, Edward F. Shaughnessy, Assistant Criminal District Attorney, Bexar County, Texas, certify that acopy of the foregoing response was mailed to Mr. James Rebechor, #545213, Bexar County Adult Detention Center, 200 N. Comal, San Antonio, Texas 78207, on this the 2 [day of September 1999.

Edward F. Shaughnessy lf1> CAUSE NO. 1998-CR-3488-W3.. "FILED k 4&X PARTE: 'BEXAR CO.°TFXAS »J THE DISTRICT COURT?\$ \, 3 JAMES REBECTOR ' r' t. - \ ' >S /zOfli'MJtf -1 A H: 1-44™ JUDICIAL DISTRICT APPLICANT • &EPUTY BEXAR COUNTY, TEXAS BY. STATE'S RESPONSE TO APPLICANT'S PETITION FOR WRIT OF HABEAS CORPUS TO THE HONORABLE JUDGE OF SAID COURT: Comes, now, the State of Texas by and through its Criminal District Attorney.

Susan D. Reed, and files this response to the Applicant's Petition for Writ of Habeas Corpus. t -^-\^ -x ^r\ The Applicant James Rebechor has filed this petition for a post-conviction writ of -habeas corpus pursuant to Article 11.07, § 3(a), Texas Code of Criminal Procedure "• / • ' ' Annotated (VerpOn Supp. 2000).

The State files this mandatory answer pursuant to Argigle 11.07 §3(b), supra. II. The Applicant was convicted of committing the offensaof Possession w/intent to deliver in Cause No. 1998-CR-3488-W3 and punishment was assessed at confinement for 35 years. His petition for a writ of habeas "corpus was filed on April 30, 2007,.The State was served by the District Clerk of Bexar County on May 4,2007.

III. The State generally and specifically denies each and every allegation of fact made by the Applicant and demands strict proof of same. •\$«? f CERTIFICATE OF SERVICE I, Mary Beth Welsh, Assistant Criminal District Attorney, Bexar County, Texas, certify that a true and correct copy of the foregoing response was mailed to James Rebechor, Ramsey I Unit, 1100 FM 655, Rosharon, Texas 77583, on this the 7th day of May 2007.

MARtJBETH WELSH V CONCLUSION WHEREFORE, PREMISES CONSIDERED, the State would urge that the trial court ender an ORDER recommending the relief be denied. Respectfully submitted, SUSAN D. REED Criminal District Attorney Bexar County, Texas J'L.. 01 -rS f^ ±,/j^S MAR^ETH WELSH Assistant Criminal District Attorney Bexar County, Texas Cadena-Reeves

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(210) 335-2436-FAX Attorneys for the State \$o)

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