

277TH JUDICIAL DISTRICT COURT OF WILLIAMSON COUNTY, TEXAS

Ex parte Charles Christopher Lancaster

Ex parte Lancaster · No. 95-039-K277A · Decided June 24, 2015

SUMMARY

This document is Charles Christopher Lancaster's objections to the trial court's findings of fact and conclusions of law in Texas habeas proceedings involving Williamson County cause numbers 95-039-K277 and 95-040-K277. The filing disputes findings concerning sentence expiration, confinement, delay and laches, subsequent convictions, and actual innocence, and requests further findings, an evidentiary hearing, remand, or habeas relief.

CASE DETAILS

COURT	277th Judicial District Court of Williamson County, Texas
JURISDICTION	Texas
DECIDED	June 24, 2015
DOCKET	95-039-K277A
DISPOSITION	other
PROCEDURAL POSTURE	Applicant's objections to the trial court's findings of fact and conclusions of law in a Texas post-conviction habeas corpus proceeding.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Charles Christopher Lancaster v. The State of Texas

TOPICS

- state post-conviction relief
- habeas corpus
- actual innocence
- appellate procedure

PRACTICE AREAS

- Texas post-conviction habeas corpus
- criminal procedure
- appellate procedure

QUESTIONS PRESENTED

- Whether the trial court erroneously found that Lancaster's challenged sentences had expired and that he was not confined or subject to continuing collateral consequences from the convictions.
- Whether the trial court properly applied laches to bar the habeas application based on the delay in filing.

3. Whether the trial court failed to address Lancaster's ineffective-assistance and actual-innocence claims based on newly discovered evidence.

KEY QUOTATIONS

“Lacking a showing of either actual confinement or continuing collateral consequences, this Court concludes that this application in its entirety should be dismissed for a lack of jurisdiction.” (p. 9)

“Therefore, the Applicant respectfully request either the Court of Criminal Appeals, remand the case back to the trial court for further findings of fact and conclusions of law, hold an evidentiary hearing, or GRANT the Application for Writ of Habeas Corpus” (p. 12)

FACTUAL BACKGROUND

Lancaster received twenty-year sentences in Williamson County causes 95-039-K277 and 95-040-K277 and was later paroled. He contended that a parole revocation and a later order stacking the sentence in cause 02-275-K277 caused the sentences in the challenged cases to remain active through June 2015. He also asserted newly discovered evidence and actual-innocence claims based in part on affidavits from victims and his mother.

PROCEDURAL HISTORY

Lancaster filed an application for writ of habeas corpus challenging convictions in Williamson County causes 95-039-K277 and 95-040-K277. The trial court entered findings of fact and conclusions of law on May 22, 2015, including conclusions that the sentence had expired, that Lancaster lacked confinement or continuing collateral consequences, and that the application was barred by laches. This document, executed June 8, 2015, objects to those findings and requests amended findings, an evidentiary hearing, remand, or habeas relief.

DISPOSITION

other

REMAND INSTRUCTIONS

The filing requests remand to the trial court for further findings of fact and conclusions of law, but the source does not show that a court ordered remand.

OPINION

Lancaster, Charles Christopher

PER CURIAM.

1 : \.0“§; - June 8¢ 2015 The District Clerk of Williamson County Lisa David P.O. Box 24
Georgetownq Texas 78627 RE: Ex parte Charles%€christopher Lancaster cause no. 95+039:K277A
- - " _ Dear Clerk¢ Please find enclosed for filing in the above styled and numbered cause, the
Applicant's Objections to: Trial Court Findings of Fact and Conclusions of Law. Please bring this
to the attention of the Honorable Stacey Mathews, the Presiding Judge in the 277th Judicial

District Court of Williams County, Texas. Please include the enclosed documents with the Record in the habeas record forwarded to the Court of Criminal Appeals. If the record has already been forwarded in the instant case, please forward a supplemental record for consideration in said Honorable Court. The enclosed objections demonstrate continuing incarceration on the instant sentence until June 28, 2015. I thought it prudent to alert the Court as to its erroneous judgments in the instant case. Further, would you please bring this to the attention of the Honorable John C. Prezas, A.D.A; By copy of this letter I serve a copy to the Texas Court of Criminal Appeals at Austin, Texas. This to ensure the facts of the case are heard. Thank you for your time, .

M RECEIVED |N

Charles Christopher Lancaster COURT OF CRIMINAL APPEALS

TDCJ_ID #.1256143

Eastham State Farm JUN 22 2015 2665 Prison Road 51 Lovelady, Texas 75851 h ' Abe Acosza, clerk cc/ file -/c/f' iiiialr A; z: a' §] P.S. Please file mark date stamp the enclosed copy of this letter and return to me in the S.A.S.E. provided for your convenience.

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CGUSE NO. 95~039°K277A

Ex parte I § IN THE 277th Judicial District Court of Williams County, Texas Applicant's Objections to:

TRIAL COURT FINDING OF FACT AND CONCLUSIONS OF LAW

TO THE HONORABLE JUDGE OF SAID COURT: COHES NOW, Charles Christopher Lancaster, "Applicant" and objects to the Trial Court's erroneous finding of fact and conclusions of law entered on May 22, 2015, in the above-styled and numbered cause, and would respectfully show this Honorable Court the following: I. This Honorable Court after reviewing the pleadings of the Applicant, and the State, entered several erroneous Findings of Fact, and Factual Findings within the Conclusions of Law. These Findings are not supported by the record in this case, and are based upon the State's Proposed Findings of Fact and Conclusions of Law which do not properly reflect the factual and legal precepts of the instant case. The Applicant at this time notifies this Honorable Court of these erroneous Findings contained within its Order issued on May 22, 2015, and respectfully request this Honorable Court reevaluate his pleadings, and reform the Order to speak the truth in all instances. II.

ERRONEOUS FINDINGS OF FACT

This Honorable Court entered Nine (9) Findings of Fact under Page 1 paragraph "11. FINDINGS OF FACT". The Applicant demonstrates the following findings of fact are factually incorrect. At Finding of Fact 4. the Court found:

4. This Court observes that Applicant's sentence in this

case has since expired. The Finding of Fact at "4." is factually incorrect, as the following factual events occurred to prevent the sentence from expiring on December 31, 2014: On July 5, 2001, the Applicant made parole and was released from the custody of the Texas Department of Criminal

Justice - Institutional Division (TDCJ~ID). At this point the earning of time on the instant sentence ceased to accrue. The sentence did not begin to accrue time again until January 7, 2002, when the Texas Board of Pardons and Parole issued a "Blue Warrant" to revoke said parole. Therefore, the Applicant's sentence was extended approximately' Five (5) months and twenty three (23) days. The Applicant has made a request to the TDCJ-ID's Official responsible for said information, and discovered that the Maximum expiration date in the instant case is in actuality June 23 2015. Thus, the Court's finding on May 22, 2015, is incorrect- Less there be any doubt as to this factual issue, the Applicant has attached an Original Inmate Request Form (1-60) to the Application at Exhibit - A1, demonstrating the official expiration date as of record with TDCJ-ID. Next, at Finding of Fact 5. the Court found:

5. Applicant does not plead nor prove any confinement

resulting from his conviction. Page 2 The Finding of Fact at "5.," is incorrect as, it is not necessary for the Applicant to plead or prove confinement on an active case. As demonstrated above concerning finding "4." the maximum expiration date of the instant sentence is June 23, 2015. At the time of signing of the instant Finding of Fact and Conclusions of Law by the Court on May 22, 2015, there was an entire month remaining on the sentence and five months remaining upon the filing of the Application for Writ of Habeas Corpus on February 25, 2015. Therefore, factually the Applicant on February 25, 2015, was still under judgement and the instant case are subject to jurisdiction under Texas Code of Criminal Procedure art. 11.07 § 3. But, less there be any doubt, on or about May 23, 2003, the Applicant received an order in cause no. 02-275-K277, to run the case "CONSECUTIVELY [stacked] to cause no. 95-039-K277 and 95-040-K277, the defendant's parole revocation cases." (See, Exhibit - B1) As such, cause no. 02-275-K277 has not earned a single day credit since May 23, 2003, and had only accrued 509 days prior to the judgement. Thereby, directly demonstrating continuing confinement as a result of the instant conviction. As minus the instant case, the Applicant would have all but completed cause no. 02-275-K277. However, the stacked sentence has prevented the Applicant from earning time in cause ~no. 02-275-K277, as a direct result of the instant cases. v Next, the Finding of Fact at 8. the Court found:

8. There is no evidence before this Court that the State in

this case at any point failed to disclose any evidence to Applicant, or that the State was previously aware of the claims only now presented by Applicant. Page 3 The Finding of Fact at "8." is in direct contention with the affidavits filed by the victim in the instant case. The Applicant directs the Court to the multiple affidavit's -- four in each case -- demonstrating the knowledge of the prosecution in the instant cases concerning the actual innocence of the Applicant. Therefore, there can be no doubt that this Finding of Facts is erroneous, as the Court has sufficient evidence in the instant case demonstrating Applicant's actual innocence of the crime alleged in the indictments. Next, at Finding of Fact 9. the Court found:

9. Applicant is currently incarcerated in TDCJ under a life

sentence, as a result of one of his five felony convictions subsequent to his plea in this case. The

Finding of Fact at "9." is incorrect in its factual recitation concerning the alleged "five felony convictions subsequent to his plea in this case." It is true, the Applicant is currently incarcerated in TDCJ under a life sentence, however, this is not as a result of this felony conviction, nor is the life sentence challenged within this claim. Further, one of the five subsequent convictions, is in actuality prior to the instant cases. In cause no. 7730, from the 1st Judicial District Court of Bastrop County, Texas, the Applicant was sentenced to nine (9) years in TDCJ-ID. Although the judgement in cause no. 7730 was signed on May 30, 1995, -- a mere 81 days after the plea in the instant cases -- the Applicant was given credit for 334 days served in the case, and only 103 days in the instant case. cf. Finding of Fact at 3. As a result, cause No. 7130 -- committed on or about January 30, 1992 -- is in actuality a prior conviction Page 4 to the instant case, not a subsequent conviction as it predates the instant cases by 231 days. (cf. Finding of fact at 3.: Exhibit - C1) This issue will be further discussed below' at Conclusions of Law no. 26. incorporated by reference herein. III.

§BRO!§OUS FIBQLNG'OF FACT QONTA!§D WITHIN CONCLUSIONS OF LAW`

The Court has made several Findings of Fact within the Conclusions of Law portion of the Order in the instant cases. Beginning at, Conclusions of Law 14. the Court found:

14. While Applicant claims that he could not have filed this

Application previously because the victim resided in Arizona until just recently, it is clear from the face of the submitted affidavits that the notary public which witnessed them was from Maricopa County, Arizona. Clearly, Applicant could have contacted the victims and obtained the affidavits at any time in the last two decades. This is a bare assertion unsupported by the factual record, and a mere bare assertion of the Court. The Applicant plainly stated within his Application: "It is further noted that the Applicant was unable to obtain the Sworn Affidavit in this case until January 20, 2015, as the alleged victim was in Arizona. However, the alleged victim is residing in Texas, in Williamson County, and is available for any evidentiary hearing required in this case, should it be deemed necessary." Id. at Ground One (emphasis added) The denotative substance of the Applicant's statements are clear; the alleged victim was in Arizona, hence the Maricopa County, Arizona, notary public witness. The Applicant never stated that the alleged victim ever lived in Arizona, nor that she in some way had moved back to Texas. The victim in the instant case has since executed two sworn affidavits in Texas at Page 5 the Williamson County Courthouse itself, thereby, excluding any doubts as to the authenticity of the Sworn Affidavits. However, there is one glaringly clear problem with the Conclusion of Law Finding of Fact at 14., that is the statement: "Clearly, Applicant could have contacted the victims and obtained the affidavits at any time in the last two decades." Id. This is a violation of TDCJ-ID Administrative Directive 04.82, which prohibits contact with a victim or a victim's family without consent of TDCJ's Victim_Services Division. Further, as proposed by the Court such contact by the Applicant would be a Felony of the Third Degree. Tex.Pen. Code § 38.111(d); Furthermore, this would include "either directly or

through a third party, a victim of the offense or a member of the victim's family..." Id. See also, Tex.Gov't Code § 498.0042. Had the Applicant contacted the victim in the instant case any time within the past two decades, he would have been subject to a Third Degree Felony with a two to ten (2 - 10) year penalty, however, this would have been subject to enhancement rules under Tex.Pen. Code § 12.42, and as the indictment already contained a single enhancement paragraph, would have accrued a second paragraph, placing the Applicant at jeopardy of another life sentence. No Court should require an Applicant to provide evidence from a source which requires him to face significant further penalties to obtain. Therefore, the reasoning of the Court is flawed, and clearly the Applicant could not have contacted the victims and obtained the affidavits at any time in the last two decades, without facing possible punitive measures, including loss of all good time accrued, and enhanced felony charges in the instant case. Next, at Conclusions of Law 15. & 16. the Court found:

15. Specifically Applicant has proved no reason why he only now has filed an affidavit from his own mother alleging that the value of the property was different than reported at the time.

16. This Court concludes that the Applicant has not provided any real reasons for the significant delay in presenting this application. For the reasons outlined supra, at 14. the Applicant demonstrated plainly the reasons for the delay. As the Applicant cannot force a victim to contact him, nor execute an affidavit, which in fact demonstrates one of two things. 1) That the value of the property was in actuality \$400.00, and not \$3,000.00 as alleged in the State's Reply, as the State combined the value of four (4) separate cases to arrive at that amount; and/or 2) the victim has recanted the original report to reflect a true statement as to value. Either of these reasons standing alone or together are adequate to warrant relief. The laws of the State of Texas, and implemented Rules of TDCJ-ID, shown above provide adequate preventative measures implemented by the State itself to discourage contact by the Applicant of his victims. (See, 14. supra, incorporated by reference herein.) The Court's Finding of Fact under Conclusions of Law 15. & 16. are in direct conflict with the facts of the case, and the laws of the State of Texas, and rules and regulations of TDCJ-ID at AD-04082. Page 7 Next at Conclusion of Law 17., 18., & 19. the Court found:

17. Applicant's twenty year delay in filing this application significantly prejudiced the State to meaningfully respond to the factual basis claimed.

18. Even though the State need not show a particularized prejudice, it is prejudiced by faded memories of law enforcement and the victims, by the diminished availability of witnesses, and by the lack of physical evidence from twenty years ago.

19. Therefore, this application for writ of habeas corpus is barred by the equitable doctrine of laches. These three Factual Findings contained within the Conclusions of Law portion of the Order in the instant case all revolve around a single precept: That the State claims prejudice as a result of the delay in filing. However, this is far from the truth.

First, the State offers no legitimate reason for any alleged prejudice. The State claimed within its reply in the companion case at 95-039-K277, that: "However, the State anticipates affidavits or other evidence will show that when law enforcement responded..." (95-040-K277A, Reply of State, attached to Amended Application, filed May 18, 2015, with the clerk.) Thus the State has the police reports, and officers in the instant case available, and no prejudice is shown. Next, the victim in the instant case is quite adamant about the innocence of the Applicant, and executed four (4) sworn affidavits, and displayed an increasing willingness to testify on his behalf. Thus there can be no prejudice as to memories, or availability in either case. As far as lack of physical evidence, the State has all the police reports, witness statements, and pawn receipts available Page 8 to demonstrate its case. However, quite simply, the State after review was unable to prove up its points of contention, and made no attempt to do so once it realized the Applicant's grounds were valid. Thus, as the Order of the Court on these three contentions centers around the State's contentions, which are unproven and unfounded, the issues are moot. Therefore, in the instant case, the application for writ of habeas corpus is not barred by the equitable doctrine of laches as all the evidence available in 1995, is readily available- Next, under (confinement) Conclusions of Law 20., 24., 25-,

26. & 27. the Court found:

20. Even if not barred by Laches, Applicant has failed to prove that he is suffering any confinement resulting from this conviction, a fact necessary to establish jurisdiction.

24. In this case. Applicant's 20 year sentence in this matter has expired, and Applicant has not alleged any further confinement resulting from his conviction. Therefore, this Court concludes that Applicant is not being physically confined as a result of this conviction.

25. Further, Applicant has not alleged that he is suffering from any collateral consequences as a result of his conviction.

26. Even beyond what is alleged, this Court observes that Applicant is currently serving a life sentence in TDCJ on one of his felony conviction which arose after his conviction in this case. However, even if this instant conviction were used to enhance of habitualize Applicant in any of his subsequent cases, it would not be the only case capable of doing so, as Applicant has been convicted of five other felonies, and any one or two of those would have been sufficient regardless of his instant conviction in this case.

27. Lacking a showing of either actual confinement or continuing collateral consequences, this Court concludes that this application in its entirety should be dismissed for a lack of jurisdiction. Page 9 As stated above in reference to the Finding of Fact nos. 4. & 5., the Applicant as of date is currently serving time on the instant cases until the maximum expiration date of June 23, 2015. Thus, establishing jurisdiction under statute, "Confinement means confinement for any offense or any collateral consequences resulting from

the conviction that is the basis of the instant habeas corpus." Tex. Code Crim. Proc. art. 11.07 § 3(c). Thus, the Applicant need not have plead any additional jurisdiction in the instant case as the sentence as of May 22, 2015, had not expired as alleged in the Court's Finding of Fact, and Conclusions of Law. Furthermore, there is a collateral consequence in the instant case. as demonstrated above, cause no. 02-275-K277, was "stacked" on top of the instant cases, thereby, demonstrating that there is indeed a collateral consequence to the instant cases. The Applicant has not earned a single day in cause no. 02-275-K277 as a result of the instant convictions. (See, Exhibit - B1) Therefore, the Applicant, though not required to, demonstrates both continued jurisdiction though his active -- not fully served -- cases, and the collateral consequences of the stacked fifteen year sentence in cause no. 02-275-K277. Thus, Sections 24., 25., 26. & 27., are unfounded and clearly erroneous in their factual analysis compared to the law. The Applicant was as of May 22, 2015, currently confined in the instant cases, and continues to suffer collateral consequences for the next thirteen and a half (13%) years as a result of the stacking order in cause no. 02-275-K277. Page 10 The Court observed in No. 24. that "any one or two of those would have been sufficient..." Id. regarding enhancement purposes. However, minus benefit of cause no. 94-039-K277, and 95-040-K277, . no prior or subsequent enhancement and/or habitualization as a result of Applicant's prior convictions, would have resulted in the life sentence in cause No. 10,208' from the 21st Judicial District Court of Bastrop Conty, Texas, as the enhancement would have been only a single paragraph, not two paragraphs for enhancement purposes. IV.

FAILURE TO ADDRESS THE MERITS OF CJA:AIMS

In the instant case, the District Court wholly failed to make any decision as to the effectiveness of counsel. Therefore, the Applicant reasserts his claims at this time, and respectfully request a further finding on this matter. Furthermore, the Applicant properly filed an amended Application on or about May 18 2015, which contained the Ground Four: Actual Innocence, and Newly Discovered Evidence in the instant cases. This Honorable Court has failed to properly address these claims as well. The operative substance of these claims were contained within the original application, and responded to by the State. Further, additional evidence was brought to light after the filing of the original application which necessitated the filing of the amended application. These additional facts, demonstrated the State's complicity and egregious conduct in the original cases, and filing in this case both in 1995, and 2015. Page 11 Therefore, the Applicant respectfully request further findings of fact and conclusions of law to properly address the merits of all the Applicant's claims. V.

ENCLOSURE

WHEREFORE PREMISES CONSIDERED; the Applicant, objects most ardently to the findings of fact and conclusions of law in the instant cases as clearly erroneous, as demonstrated by the record, and Applicant moves for this Honorable Court to adopt the Applicant's Proposed Finding of fact and Conclusions of Law. Therefore, the Applicant respectfully request either the Court of Criminal Appeals, remand the case back to the trial court for further findings of fact and

conclusions of law, hold an evidentiary hearing, or GRANT the Application for Writ of Habeas Corpus` as a result thereof, as the Applicant has significantly prevailed in the instant cases. Respectfully submitted arlé§ Christopher Lancaster

TDCJ-ID # 1256143

Eastham State Farm 2665 Prison Road # l Lovelady, Texas Executed on this the 8th day of June, 2015. Page 12

UNSWORN DECLARATION

I, Charles Christopher Lancaster, declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct.

28 U.S.C. § 1746

Executed on this the Bth day of June, 2015. Charles Christopher Lancaster

TDCJ-ID # 1256143

Eastham State Farm 2665 Prison Road # l Lovelady, Texas 75851 Page 13

BXBIBIT - A1

TDCJ-ID CFFICIAL RESFONSE AS TO HAXIHUM DATB

JUNB 230 2015

SUBJECT: ~-State briefly the problem on which you desire assistance I have twa habeas carpua' pending in the Court of Criminal Appeals, and need to verify whether ar not the fullomiggggasea have ceased to operate? 1: Cause No. 95- 039- -K277, williamson County, Texas 20 years TDCJ-ID; is cause No. 95-UhU-K277, williamson County, Texas 20 years TbCJ¥ID; I need to know whether these cases are still active, and if so when do they cease to operate? gi ` ' - l / Thank you for your assistance; Name; Charles Christopher Lancaster No; 12561#3 ` . Un@ Eastham Living Quarters: 3 D°r"- ' -59!5\1"\< l -WérkAs`Signment: I'Sar-mentv Facta"ry DISPO_S|TION: (Inmate \ivil| not Write in _this:s-pace) Yes, as of date both cases are active. In both cases the max date is 6- 25- 201 k:‘ fo%”@” zebso(new11-so)

BXBIBIT - B1

CAUSB IO. 02-275-K277

277th JUDICIAL DISTRICT COURT 03 WILLIAHSCN COUNTY¢ TEXAS

ORDER STACKING SENTENCB CN; 95-039-&277`& 95-040-K277

AND INDICTHBNT IN SAID CAUSE

-1) __.E Counts _l \$Tl{eft v . Peoal c Y\$`f Count 2: llnanthorized Use of a Peoal c desec. 31 Exh- 'Qi)` " _ M__" § \-1. r';"“~.) l, »~. t"; . - "/ -~.\B vehicle comea:. then »' '~`. renal codesec. ii .a\_\_s v “‘é‘\$e\$§\$i‘i°;ll\$hé\$§\$i;f‘£‘f\$°‘ .. \_ STATE,oF T\_ExAs 1,` _ _ _ , No.ZHs 375 ab 377 V. S,D; TX03972529 CHARLES CHRlsToPHER

' LANcAsTeR v acquired or otherwise exercised control over property, namely, a truck, which had a value of iii lHE NAME AND BY AUTHOR|TY OF THE STATE OF TEXAS. The Grand lury for the January 2002 term of the 277th Judicial District Court of Williamson County, Texas, having been du!v selected, empaneled, sworn, charged and organized, presents that before the

presentment of this indictment QQunt Qg§ on or about the 29th day of December, 2001, in the County of Williamson and State of Texas, Charles Christopher Lancaster, hereinafter "defendant", \$1,500 or more, without the effective consent of Ta_mara Fullér, the owner, and with intent to deprive the owner of the property, un Two `The Grand lury further presents that on or about the 29th day of December, 2001, in the County ofWilliamson and State of Texas, Charles Chrlistopher Lancaster, hereinafter "defendant", intentionally or knowingly operated a motor-propelled vehicle, namely,` a truck, owned by Tamara Fuiler, without the effective consent of the owner, gmat'llir_ee The Grand lury further presents that on or about the 1st day of December; 2001, in the County of Williarnson and State of Texas, Charles Christopher Lancaster, hereinafter "defendant", acquired or otherwise exercised control over property, namely, tools and a televsian, which had a value of \$1,500 or more, without the effective consent of Carl Deike, the owner, and with intent to deprive the owner of the property, n ' |LED , _ at n'nl~¢lr _{Q_* 4

_ MAR _2 8 2002

/ ' mae ` D;S;,>“;»_r;m, unamson cn., Tx ~ \ ll No. 02-275-K277

THE STATI§ OF TEXAS IN THE 277TH DISTRICT COURT

VS. . n ()F

CHARLES CHRISTOPHER \\"ILLIAMSON COLWTY, TEXAS

LANCASTER

MOTION 'r0 CUMuLATE sENTENCE

To rHr-; HONORABLE JUDGE or sAm COuRT; CON[ES NOW THE STATE OF TEXAS, by and through her Assistant District Attomey. lane Starnes_ and moves the Court to cumulate the sentence assessed in the above cause number with the sentences in cause numbers 95-039-K277 and 95-040-K277 and as grounds therefore shows the follo\\ing: 1. The defendant was sentenced to 20 years 'TDCJ-[D in cause numbers 95-039~K277 (Burglary ofa Habitation) and 95-040-K277 (Thei`t) on or about April 10._ 1995. Those two sentences ran concurrently He was paroled on those cases in July. 200\\. Defendant was on parole in those cases when cause number 02-275-K277 was committed, and a motion to revoke the defendants parole has been filed buy the Pardons and Parole Division, TDCJ. ' ll. As part of a plea agreement, the defendant has agreed that the issue of whether cause number 02-275-l<277 will run consecutively or concurrently with cause numbers ll 95-039-K277 and 95-040-K277 will be decided by_the Court alter hearing evidence on that issue. The defendant is well aware that the State is asking the Court to impose a consecutive sentence Ul. The interests of justice would be best served by beginning the sentence imposed in cause number 02-275-K277 when the sentence in 95-039-K277 and 95-040-K277 has ceased to operate t WHEREFORE PREMISES CONSIDERED, THE STATE OF TEXAS moves the Court to cumulate the sentence so that justice may be done. Jane Starnes Assistant District Attorney Williamso`n County, Texas

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing motion has been delivered to counsel

for the defendant, Russ Hunt, Jr., on this the 19th day of May, 2003. Lane Stames V^oll
THE STATE OF TEXAS
VS.

CHARLES CHRISTOPHER
LANCASTER

No. 02-275-}(277 IN rmi 277“(1)15TR1CT cotth 1 OF wiLLIAMSON COU§TY, Texas
ORDER

After hearing evidence on the State’s Motion to Cumulate Sentence, the Court hereby orders that
the sentence in cause number 02-275-K277 run V CoNsECUTtvely

CONCURRENTLY

to cause number 95-039-K277 and 95-040-K277, the defendant’s parole revocation cases. s/ ;, xeu
A~aeazso~ Presiding Judge; 27th Judicial District Court » Williamson County, Texas

EXHIBIT ° Cl

CAUSB NO. 7730

218th JUDICIAL DISTRICT COURT OF BASTROP CCUNTY¢ TBXAS

JUDGBHENT¢ PROBATION REVOCATI°N¢ INDICTHBNT

lb

CHARLES LANCASTER

THE STATE OF TEXAS , |N THE 21ST JUD|C|AL D|STR|CT
COURT OF

NO.7730 VS "

_____, _____ - aAsrRoP couer, TEXAS JquEMENT REvoKiNG PROBAT\oN Juoc-:E
PRES\D\NG: `X\g;©\§ '{Q§§¢¢' pATE oF JquEMENT: SS;Q;\` ?>§ §§ \O\C\§ ArroRNEY FoR
srArE.; cHARLEs D. PENicK

ATTORNEY FOR DEFENDANT: Q\`>(\(\

OFFENSE CONVICTED OF: Burglary of a Habitation DEGREE; DATE OFFENSE coMerTEo;
~SCL\GGA`\ 33)\@{"`1

DATE OF PROBAT|ON ORDER: June 19, 1992'

PARAGRAPH VIOL_ATED AND GROUNDS FOR REVOCAT|ON: k 21)' Defé'iidant failed to
remain incarcerated in Bastrop County Law Enforcement Center until transported`to..§astrop
County Restitution Center. ` `;-_¢';

AS SET OUT IN STATE'S ORIGINAL PETIT|ON TO REVOKE PROBAT|ON

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CriminalJ,ustife/_|nstitutional Division| probated ten (10) years FiNDINGs on use or oEAoL-
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NO - MQ__ - BOND S_/_Q._e\$@__~_

THE STATE OF TEXAS VS. CHARLES LANCASTER 215T DISTRICT COURT

CHARGE: Burglary of Habitation

WITNESS: CHRIS WALKER

IN THE NAME AND BY AUTHORITY OF THE STATE OF T

65 n THE GRAND JURY, for the County of Baa§§§§, w of Texas, duly selected, empaneled, sworn, charged, an_m.rgad'ze`\* such at the JANUARY Term A.D. 1992 of the '~ D§§trict Court for said County, upon their oaths presentn »M id court at said term that CHARLES LANCASTER hereinafte “` De"endant, on or about_ the 30th day of January A. D. . ' , ~»re the presentment of this indictment, in the County - j 'esaid, did then and there intentionally, without "¢ ' 'consent of THOMAS YOUNG , the owner thereof, enter a h intent to commit THEFT % d'?i?g}€yy of the Stat

E' o'itEMAN 0)? THE GRAND JURY

\I\`D. against the pea . ~;'7 § guML\_ES\_LA'£/LSIEB 1 ` '730 ' PAGE Two

ORDER REVOKING PROBATION (FELONY) n

On the 2nd day of September. 1994, the District Attorney of Bastrop County, Texasl h|ed with the Judge of said Court a written report setting out the respects in which the defendant had violated the conditions of probation, to wit: oefendanr violated condition number cuenry- one (21) which was defendant 11111 remain incarcerated in aascrop county Law Enforcement_ Center until transported to Bastrop County Restitution Center, to- wit: defendant has faited to remain incarcerated in the Bastrop County Law Enforcement Center as required. On the I§day of §\ § `3§§ 19 355 the defendant appeared in open Court in personl his attorney, P\§ § \L€;\\`C)§\AK\(\ also being present, and the State appeared by her District Attorney and the Probation Oficer of said Court, and after examining said written report and hearing the evidence offered by both the State`and the defendant the Court is of the opinion that the defendant, Charles Lancaster violated the terms and conditions of this probation in this respect Defendant violated condition number twenty- one (21) which was defendant will remain incarcerated in Bastrop County Law Enforcement l'.er\ter until transported to Hastrop County Restitutcn Center, to- uit: defendant 'has failed to remain incarcerated in the Eastrop County Lau Enforcement renter as required. - It 1s therefore ORDERED ADJUDGED and DECREED by the Court that the order suspending the imposition of the sentence and placing the defendant on probation heretofore entered in this said cause be and the same is hereby revoked and the defendant sentenced to serve §§ §X§§ LC\\ years in the Texas Department of Criminal Justice/Institutional Division and ordered to pay to the Clerk of the District Court of w County: \$ Q'\ 5 restitution; \$ f1ne; \$ Su\ “\Y court costs; §§§ §\ . \C0 Court appointed attorney fees; as a condition of parole and the said defendant Charles Lancaster who has been adjudged guilty of the offense of Burglary of a Habitation and he be taken by the

authorized agent of the State of~ Texas or by the Sheriff of Mp County Texas and by him safely conveyed and delivered to the Director of said Texas Department of Criminal Justice/Institutional Division there to be confined in the manner and for the period aforesaid-h It is further the ORDER of this Court that the Defendant be given credit for time served in custody as follows: owen Qv@;\tv toto 33~\ deeds see\ '@\ ' signed 11115 the §§ §§ day of i\i\C)~\t\ ,A.o. 19 C\K

APPROVED AS TO FORMZ

AssisT'\ANT olsTR1cT ATTORNEY Juooe'PREsUTNU

BASTROP COUNTY, TEXAS

(F)

TF|NGERPR|NT OF R|GHT |NDEX FINGER OF DEFENDANT?

___l/_:. __.Z_a)_