

**U.S. District Court [LIVE]
 Eastern District of TEXAS LIVE (Lufkin)
 CIVIL DOCKET FOR CASE #: 9:05-cv-00032-JKG**

Shaw v. Director of TDCJ-CID
 Assigned to: Magistrate Judge Judith K. Guthrie
 Cause: 28:2254 Petition for Writ of Habeas Corpus (State)

Date Filed: 02/14/2005
 Jury Demand: None
 Nature of Suit: 530 Habeas Corpus
 (General)
 Jurisdiction: Federal Question

Petitioner

Desiree Ann Shaw

represented by **Desiree Ann Shaw**
 769352
 Gatesville Unit
 1401 State School Road
 Gatesville, TX 76599
 PRO SE

V.

Respondent

Director of TDCJ-CID

represented by **Tommy L Skaggs**
 Attorney General's Office
 PO Box 12548
 Postconviction Litigation Div
 Austin, TX 78711
 512/936-1400
 Fax: 15129361280
 Email: tommy.skaggs@oag.state.tx.us
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
01/31/2005	3	ORDER transferring case to ED/TX Lufkin Division. Signed by Judge Walter S Smith Jr on 1/31/05. (djh,) (Entered: 02/17/2005)
02/14/2005	4	Case transferred in from Western District of Texas; Case Number W-05-CA-028. Original file with documents numbered 1-3, certified copy of transfer order and docket sheet received., filed by Desiree Ann Shaw. (Attachments: # 1 Affidavit from WD/TX Waco Division)(djh,) (Entered: 02/17/2005)
02/14/2005	1	PETITION for Writ of Habeas Corpus (28;2254 STATE) , filed by Desiree Ann Shaw.(djh,) (Entered: 02/17/2005)

02/14/2005	● <u>2</u>	BRIEF filed in support of <u>1</u> petition for writ of habeas corpus by Desiree Ann Shaw. (Attachments: # <u>1</u> Affidavit)(djh,) (Entered: 02/17/2005)
02/14/2005	● <u>5</u>	ORDER REFERRING CASE to Magistrate Judge Judith K. Guthrie. Signed by Judge Ron Clark on 2/14/05. (djh,) (Entered: 02/17/2005)
02/17/2005	●	Magistrate Consent Form Mailed to Desiree Ann Shaw (djh,) (Entered: 02/17/2005)
02/22/2005	● <u>6</u>	RESPONSE to <u>3</u> Order by Desiree Ann Shaw. (djh,) (Entered: 02/22/2005)
02/24/2005	● <u>7</u>	ORDERED that the Clerk shall forward to Petitioner a copy of this Order along with an ifp application and Petitioner must submit either the \$5.00 filing fee or a proper ifp application within 30 days of receipt of this Order. Signed by Judge Judith K. Guthrie on 2/24/05. (kjr,) (Entered: 02/25/2005)
02/24/2005	● <u>8</u>	OPPOSITION to <u>3</u> Order of Transfer by Desiree Ann Shaw. (received in WD/TX 2/18/05, forwarded by WD/TX & received ED/TX 2/24/05) (kjr,) (Entered: 02/25/2005)
02/25/2005	●	Forwarded Petitioner <u>7</u> Order & ifp application with acknowledgment card (kjr,) (Entered: 02/25/2005)
03/03/2005	●	Filing fee: \$ 5, receipt number 9-1-0023 (djh,) (Entered: 03/03/2005)
03/04/2005	● <u>9</u>	ACKNOWLEDGEMENT OF RECEIPT by Desiree Ann Shaw as to <u>7</u> Order received on 3/5/05. (djh,) (Entered: 03/04/2005)
03/07/2005	● <u>10</u>	MOTION for Leave to Proceed in forma pauperis by Desiree Ann Shaw. (djh,) (Entered: 03/07/2005)
03/29/2005	● <u>11</u>	REPORT AND RECOMMENDATIONS that the <u>10</u> MOTION for Leave to Proceed in forma pauperis filed by Desiree Ann Shaw be denied as moot. Objections to R&R due by 4/12/2005. Signed by Judge Judith K. Guthrie on 3/29/05. (kjr,) (Entered: 03/30/2005)
03/29/2005	● <u>12</u>	ORDER TO SHOW CAUSE. Show Cause Response due within 40 days. Signed by Judge Judith K. Guthrie on 3/29/05. (kjr,) (Entered: 03/30/2005)
04/08/2005	● <u>13</u>	ACKNOWLEDGEMENT OF RECEIPT by Desiree Ann Shaw as to <u>12</u> Order to Show Cause, <u>11</u> Report and Recommendations received on 4/5/05. (djh,) (Entered: 04/08/2005)
04/11/2005	● <u>14</u>	ACKNOWLEDGEMENT OF RECEIPT as to <u>12</u> Order to Show Cause, <u>4</u> Case Transferred In - District Transfer <u>1</u> Petition for Writ of Habeas Corpus, <u>2</u> Brief received on 4/7/05. (djh,) (Entered: 04/11/2005)
05/10/2005	● <u>15</u>	MOTION for Extension of Time to File Answer by Director of TDCJ-CID. (Attachments: # <u>1</u> Text of Proposed Order)(Skaggs, Tommy) (Entered: 05/10/2005)
05/11/2005	● <u>16</u>	ORDER granting <u>15</u> Motion for Extension of Time to Answer . The time

		is extended to 6/10/05. Signed by Judge Judith K. Guthrie on 5/11/05. (kjr,) (Entered: 05/11/2005)
05/11/2005	● 16	Answer Due Deadline Updated for Director of TDCJ-CID to 6/10/2005. (kjr,) (Entered: 05/11/2005)
05/24/2005	● 17	ORDER denying as moot 10 Motion for Leave to Proceed in forma pauperis . Signed by Judge Ron Clark on 5/23/05. (kjr,) (Entered: 05/24/2005)
06/03/2005	● 18	RESPONSE to Petition for Writ of Habeas Corpus by Director of TDCJ-CID.(Skaggs, Tommy) (Entered: 06/03/2005)
06/06/2005	● 19	State Court Records received from AAG and forwarded to Judge Guthrie (1 box approx 1200 pgs) (djh,) (Entered: 06/06/2005).
06/07/2005	● 20	Magistrate Consent Form emailed to Director of TDCJ-CID (kjr,) (Entered: 06/07/2005)
06/15/2005	● 19	MOTION for Leave to File to file response to answer by Desiree Ann Shaw: (djh,) (Entered: 06/15/2005)
06/20/2005	● 20	Reply in support of 1 Petition for Writ of Habeas Corpus by Desiree Ann Shaw. (djh,) (Entered: 06/20/2005)
06/22/2005	● 21	AFFIDAVIT in Support re 22 MOTION for extension of time to file response by Desiree Ann Shaw. (djh,) Modified on 6/22/2005 (djh,). (Entered: 06/22/2005)
06/22/2005	● 22	MOTION for Extension of Time to File response by Desiree Ann Shaw. (djh,) (Entered: 06/22/2005).
06/23/2005	● 23	ORDER granting 22 Motion for Extension of Time to Reply to Director's Response. Petitioner shall have until 7/22/05. Signed by Judge Judith K. Guthrie on 6/23/05. (kjr,) (Entered: 06/24/2005)
06/27/2005	● 24	AFFIDAVIT in Support of 1 complaint filed by Nelda Joyce Burgess Godwin . (djh,) (Entered: 06/27/2005)
06/27/2005	● 25	CONSENT to Proceed Before US Magistrate Judge by Desiree Ann Shaw, Director of TDCJ-CID. Case reassigned to Magistrate Judge Judith K. Guthrie. (kjr,) (Entered: 06/27/2005)
06/27/2005	● 26	ORDER assigning case to Judge Guthrie by consent of the parties for all further proceedings and entry of judgment. Signed by Judge Ron Clark on 6/22/05. (kjr,) (Entered: 06/27/2005)
07/05/2005	● 27	MOTION to Compel Discovery by Desiree Ann Shaw. (djh,) (Entered: 07/05/2005)
07/05/2005	● 28	ACKNOWLEDGEMENT OF RECEIPT by Desiree Ann Shaw as to 23 Order on Motion for Extension of Time to File received by 6/29/05. (djh,) (Entered: 07/05/2005)
07/14/2005	● 29	MOTION to Appoint Counsel by Desiree Ann Shaw. (djh,) (Entered: 07/14/2005)

		07/14/2005)
07/18/2005	● <u>30</u>	MOTION for expansion of the record by Desiree Ann Shaw. (kjr,) (Entered: 07/19/2005)
07/20/2005	● <u>31</u>	ORDER denying <u>29</u> Motion to Appoint Counsel . Signed by Judge Judith K. Guthrie on 7/20/05. (kjr,) (Entered: 07/21/2005)
07/20/2005	● <u>34</u>	REPLY to <u>18</u> Response to Petition for Writ of Habeas Corpus by Desiree Ann Shaw. (Attachments: # <u>1</u> Exhibit)(kjr,) (Entered: 07/26/2005)
07/21/2005	● <u>32</u>	MOTION to Compel by Desiree Ann Shaw. (kjr,) (Entered: 07/22/2005)
07/22/2005	● <u>33</u>	MOTION to Appoint Federal Public Defender by Desiree Ann Shaw. (kjr,) (Entered: 07/26/2005)
07/27/2005	● <u>35</u>	MOTION to Compel Discovery by Desiree Ann Shaw. (kjr,) (Entered: 07/27/2005)
08/03/2005	● <u>36</u>	MOTION for Reconsideration re <u>31</u> Order on Motion to Appoint Counsel by Desiree Ann Shaw. (djh,) (Entered: 08/03/2005)
08/03/2005	● <u>37</u>	Additional Attachments to Main Document:. (pg 3 which was left out <u>34</u> response to respondent answer)(djh,) (Entered: 08/03/2005)
08/10/2005	● <u>38</u>	MOTION leave of court to depose witnesses by Desiree Ann Shaw. (djh,) (Entered: 08/10/2005)
08/15/2005	● <u>40</u>	MOTION for Reconsideration re <u>31</u> Order on Motion to Appoint Counsel by Desiree Ann Shaw. (djh,) (Entered: 08/23/2005)
08/17/2005	● <u>39</u>	MOTION for witnesses to appear, respond to written depositions, or produce documents, records and communications by Desiree Ann Shaw. (Attachments: # <u>1</u> Exhibit A - Texas Dept of Public Safety Crime Lab# <u>2</u> Exhibit B Angelina County DA# <u>3</u> Exhibit C John Richard Heath, Defense Counsel# <u>4</u> Exhibit D John Tatum# <u>5</u> Exhibit E Correspondence with Gerald Piechocky# <u>6</u> Petition for Writ of Habeas Corpus# <u>7</u> Proposed subpoenas)(kjr,) (Entered: 08/17/2005)
09/06/2005	● <u>41</u>	Letter from Desiree Ann Shaw re: appt of counsel (djh,) (Entered: 09/06/2005)
09/06/2005	● <u>42</u>	MOTION for evidentiary hearing, MOTION for bench warrant and consideration for Julia Bond by Desiree Ann Shaw. (djh,) (Entered: 09/06/2005)
09/06/2005	● <u>43</u>	AFFIDAVIT by Caylan Richardson . (djh,) (Entered: 09/06/2005)
09/08/2005	● <u>44</u>	NOTICE of submission of article by Desiree Ann Shaw (kjr,) (Entered: 09/09/2005)
09/19/2005	● <u>45</u>	NOTICE by Desiree Ann Shaw (Attachments: # <u>1</u> Exhibit # <u>2</u> Exhibit # <u>3</u> Exhibit)(djh,) (Entered: 09/23/2005)
09/27/2005	● <u>46</u>	MOTION for Preliminary Injunction, MOTION for Temporary Restraining Order by Desiree Ann Shaw. (kjr,) (Entered: 09/29/2005)

10/03/2005	47	MOTION to show cause by Desiree Ann Shaw. (djh,) (Entered: 10/04/2005)
10/11/2005	48	MOTION for order and government funds for federal public defender, expert witness and investigator by Desiree Ann Shaw. (djh,) (Entered: 10/11/2005)
10/13/2005	49	Correspondence received from Desiree Ann Shaw. (bjc,) (Entered: 10/14/2005)
10/17/2005	50	Supplement to reply to state's recommendations to dismiss the petition for failure to timely file(djh,) (Entered: 10/17/2005)
10/26/2005	51	ORDER denying 39 Motion, denying 42 Motion for Hearing, denying 42 Motion, denying 46 Motion for Preliminary Injunction, denying 46 Motion for TRO, granting 19 Motion for Leave to File, granting in part and denying in part 30 Motion . Signed by Judge Judith K. Guthrie on 10/26/05. (djh,) (Entered: 10/28/2005)
11/04/2005	52	ACKNOWLEDGEMENT OF RECEIPT by Desiree Ann Shaw as to 51 Order on Motion for Miscellaneous Relief, Order on Motion for Hearing,, Order on Motion for Preliminary Injunction, Order on Motion for TRO, Order on Motion for Leave to File received on 11/1/05. (djh,) (Entered: 11/04/2005)
11/09/2005	53	Memorandum in supporting subpoena duces tecum, motion to compel discovery and production of documents, petition for judicial notice of previous motions for appt of competent habeas counsel and admissions of writ counsel by Desiree Ann Shaw. (Attachments: # 1 Exhibit # 2 Exhibit # 3 Exhibit)(djh,) (Entered: 11/09/2005)
11/15/2005	54	MOTION for Leave to Proceed in forma pauperis by Desiree Ann Shaw. (djh,) (Entered: 11/15/2005)
11/15/2005	55	AMENDMENT to Petitioner's MOTION for production for State Bar of Texas Records filed by Desiree Ann Shaw. (djh,) (Entered: 11/15/2005)
11/22/2005	56	Request for Admissions by Desiree Ann Shaw (djh,) (Entered: 11/22/2005)
11/29/2005	57	<i>Supplemental ANSWER to Complaint in Response to Court Order</i> by Director of TDCJ-CID.(Skaggs, Tommy) (Entered: 11/29/2005)
12/01/2005	58	NOTICE of new evidence by Desiree Ann Shaw (djh,) (Entered: 12/01/2005)
12/14/2005	59	Reply to response 51 Order on Motion for Miscellaneous Relief, Order on Motion for Hearing, Order on Motion for Preliminary Injunction,, Order on Motion for TRO, Order on Motion for Leave to File, by Desiree Ann Shaw (djh,) (Entered: 12/14/2005)
12/14/2005	60	Reply to 57 Answer to Complaint by Desiree Ann Shaw. (djh,) (Entered: 12/14/2005)
12/14/2005	61	Letter from Sharon Weaver . (djh,) (Entered: 12/14/2005)

12/14/2005	62	Letter from Katherine Barrett (djh,) (Entered: 12/14/2005)
12/14/2005	63	Letter from Johnny Weaver (djh,) (Entered: 12/14/2005)
12/19/2005	64	AFFIDAVIT in Support re 4 complaint, by Desiree Ann Shaw. (djh,) (Entered: 12/19/2005)
12/21/2005	65	MOTION to supplement the record by Desiree Ann Shaw. (djh,) (Entered: 12/21/2005)
12/21/2005	66	MOTION to Compel discovery by Desiree Ann Shaw. (djh,) (Entered: 12/21/2005)
12/27/2005	67	EXHIBITS submitted by Desiree Ann Shaw re 60 Petitioner's statement in opposition of respondent's request for dismissal (kjr,) (Entered: 12/27/2005)
12/29/2005	68	MOTION for court to take judicial notice by Desiree Ann Shaw. (kjr,) (Entered: 12/29/2005)
01/03/2006	69	MOTION to expand record by Desiree Ann Shaw. (Attachments: # 1 Exhibit)(djh,) (Entered: 01/03/2006)
01/04/2006	70	MEMORANDUM AND OPINION that the above styled application for writ of habeas corpus is dismissed with prejudice and that all motions pending in this cause are denied. Signed by Judge Judith K. Guthrie on 1/4/05. (djh,) (Entered: 01/05/2006)
01/04/2006	71	FINAL JUDGMENT that the petitioner's case, rendered the Court's decision by opinion issued this date and orders that this action is dismissed with prejudice . Signed by Judge Judith K. Guthrie on 1/4/006. (djh,) (Entered: 01/05/2006)
01/06/2006	72	MOTION for Declaratory Judgment by Desiree Ann Shaw. (djh,) (Entered: 01/06/2006)
01/06/2006	73	BRIEF in support 72 motion for declaratory judgment filed by Desiree Ann Shaw. (Attachments: # 1 Exhibit # 2 Exhibit # 3 Exhibit # 4 Exhibit # 5 Exhibit # 6 Exhibit # 7 Exhibit)(djh,) (Entered: 01/06/2006)
01/06/2006	74	MOTION for correction of the record by Desiree Ann Shaw. (djh,) (Entered: 01/06/2006)
01/09/2006	75	ORDER denying 72 Motion for Declaratory Judgment, denying 74 Motion to direct this court's attention to a certain portion of respondent's response. Signed by Judge Judith K. Guthrie on 1/9/06. (kjr,) (Entered: 01/10/2006)
01/13/2006	76	ACKNOWLEDGEMENT OF RECEIPT by Desiree Ann Shaw on (no date indicated) as to 70 Memorandum & Opinion, 71 Judgment. (kjr,) (Entered: 01/13/2006)
01/17/2006	77	Request to file an opposition to dismissal and motion to stay and abeyance with objections to USDC dismissal of habeas corpus petition by Desiree Ann Shaw. (djh,) (Entered: 01/17/2006)

01/17/2006	● <u>78</u>	MOTION for Writ of Mandamus by Desiree Ann Shaw. (djh,) (Entered: 01/17/2006)
01/17/2006	● <u>79</u>	NOTICE for Court to take Judicial Notice by Desiree Ann Shaw (djh,) (Entered: 01/17/2006)
01/23/2006	● <u>80</u>	ORDER denying <u>78</u> Motion for Writ of Mandamus . Signed by Judge Judith K. Guthrie on 1/23/06. (djh,) (Entered: 01/23/2006)
01/25/2006	● <u>81</u>	MOTION for Certificate of Appealability by Desiree Ann Shaw. (djh,) (Entered: 01/25/2006)
01/25/2006	● <u>82</u>	Rule 60(b) MOTION to set aside <u>71</u> Final Judgment by Desiree Ann Shaw. (djh,) (Entered: 01/25/2006)
01/25/2006	●	NOTICE OF APPEAL as to <u>71</u> Final Judgment by Desiree Ann Shaw. (part of two part document see <u>81</u>) (djh,) (Entered: 02/01/2006)
01/25/2006	●	Transmission of Notice of Appeal and Docket Sheet to US Court of Appeals re Notice of Appeal (djh,) (Entered: 02/01/2006)
02/01/2006	● <u>83</u>	AFFIDAVIT in Support re <u>81</u> MOTION for Certificate of Appealability by Desiree Ann Shaw. (djh,) (Entered: 02/01/2006)
02/03/2006	● <u>84</u>	ORDER denying <u>81</u> Motion for Certificate of Appealability; denying <u>82</u> Motion for Reconsideration . Signed by Judge Judith K. Guthrie on 2/3/06. (kjr,) (Entered: 02/06/2006)
02/09/2006	● <u>85</u>	MOTION for judicial notice by Desiree Ann Shaw. (djh,) (Entered: 02/09/2006)
02/09/2006	● <u>86</u>	ORDER deferring ruling on <u>85</u> Motion for judicial notice . Signed by Judge Judith K. Guthrie on 2/9/06. (djh,) (Entered: 02/10/2006)
02/14/2006	● <u>87</u>	ACKNOWLEDGEMENT OF RECEIPT by Desiree Ann Shaw as to <u>84</u> Order on Motion for Certificate of Appealability, Order on Motion for Reconsideration received on 2/10/06. (djh,) (Entered: 02/14/2006)
02/16/2006	● <u>88</u>	AMENDED NOTICE OF APPEAL as to <u>71</u> Judgment by Desiree Ann Shaw. (djh,) (Entered: 02/16/2006)
02/16/2006	●	Transmission of Notice of Appeal and Docket Sheet to US Court of Appeals re <u>88</u> Notice of Appeal (djh,) (Entered: 02/16/2006)
02/21/2006	● <u>89</u>	ACKNOWLEDGEMENT OF RECEIPT by Desiree Ann Shaw as to <u>86</u> Order on Motion for Miscellaneous Relief received on 2/15/06. (djh,) (Entered: 02/21/2006)