

Writ No. WR-53,613-05

Trial Court No. 99-11-06435-CR-(3)

EX PARTE	§	IN THE DISTRICT COURT OF
LARRY RAY SWEARINGEN	§	MONTGOMERY COUNTY, TEXAS
	6	9TH JUDICIAL DISTRICT

STATE'S NOTICE OF INTENT TO PROCEED ON AFFIDAVITS

An evidentiary hearing in the above cause is scheduled for May 23, 2008. Under Article 11.071, the convicting court may resolve designated issues of fact based upon "affidavits, depositions, interrogatories, and evidentiary hearings." Tex. Code. Crim. Proc. Ann. art. 11.071, § 9(a) (Vernon Supp. 2007).

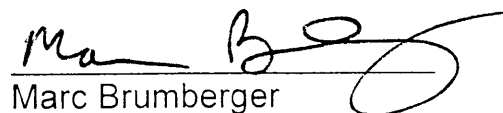
Cora G., Nicky M., Amber (M .) D., and Jamie I. each submitted affidavits in this case in response to the assertions of Lisa R. . These individuals have also each expressed to the State that it would be a substantial imposition on them to attend the May 23rd evidentiary hearing. According to the affidavits of Cora G. and Nicky M., they were both contacted by Applicant's attorney during his investigation of the current Claims and they each told Applicant's attorney the same information they set forth in their respective affidavits. The State has no reason to subpoena Cora G., Nicky M., Amber (M .) D., or Jamie I. for the May 23rd evidentiary hearing simply to have them repeat their accounts yet again.

Likewise, current and former peace officers Bryan DuBose, Lynn Dottei, Chris Smith, Daniel Norris, Scott Davis, David Moore, Ronald Reneau, Leo Mock, Gilbert Durochez, and Joseph Sclider each submitted affidavits in this case stating that they have no recollection of interviewing or otherwise ever being aware of Lisa Roberts. The State has no reason to subpoena any of these peace officers for the May 23rd evidentiary hearing simply to have them repeat that they have no information concerning Lisa Roberts. The State does intend to call Detective Thomas Duroy as a witness.

The State is filing this notice of its intent to proceed on the affidavits of the above individuals and to forgo calling them as witnesses, other than Det. Duroy, so that Applicant can choose to subpoena them if he believes they have any other relevant information to offer.

Respectfully submitted,

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