

NO. PD-1214-11
IN THE
COURT OF CRIMINAL APPEALS
OF TEXAS

JASON THAD PAYNE,

PETITIONER

VS.

THE STATE OF TEXAS,

RESPONDENT

MOTION TO SUPPLEMENT THE RECORD

TO THE HONORABLE JUDGES OF SAID COURT:

Petitioner herein, JASON THAD PAYNE, by and through his attorney of record, makes this Motion to Supplement the Record in Support of Petitioner's Brief, pursuant to Rule 10.1 and 10.2, TEX. R. APP. PROC., and as grounds therefore would show the Court:

I.

This cause was heard in the 402nd Judicial District Court of Wood County, Texas under trial court Cause No. 20,529-2008, styled *The State of Texas v. Jason Thad Payne*.

II.

The major issue of the trial was whether Austin Taylor Wages committed suicide after killing his mother or whether Petitioner killed both victims and staged the scene as a murder/suicide. The State's expert, Tom Bevel, opined the scene was staged because there was no evidence of blood spatter in front of the body of Austin Taylor Wages, testimony which was seized upon by the Court of Appeals. Petitioner's expert, Deputy Noel Martin, who actually went to the scene, testified there was blood spatter in front of the body, which tested positive with Bluestar. He opined the scene was not staged and could not be staged.

III.

During the course of the trial the Court admitted Defense Exhibit No. 6, depicting the area in dispute by regular photography. Since the trial, and arguments on Petitioner's Petition for Discretionary Review, Petitioner has had the opportunity to have that photograph, already in evidence and in the record before this Honorable Court, enhanced by methods described in Petitioner's Exhibit A, the affidavit of Sheree R. Langley, attached hereto. The enhanced photograph, attached as Exhibits B-E, allows the Court to see what Petitioner's expert saw and described. These photographs show that there is indisputable evidence of blood spatter where it should be in the case of suicide.

IV.

Petitioner's motion is made so that, in the interest of justice, this Honorable Court may have the benefit of all the evidence available so that a just and equitable decision can be reached and it is for this reason that the motion is brought.

WHEREFORE, PREMISES CONSIDERED, Appellant, by and through his attorney of record prays that the Court will grant this Motion and supplement the record with the enhanced version of Defense Exhibit 6 for the Court's consideration.

Respectfully submitted,

DOUGLAS H. PARKS

State Bar No. 15520000

321 Calm Water Lane

Holly Lake Ranch, Texas 75755

(214)521-2670

(903)769-3465 - Fax

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Motion to Supplement the Record was served on Henry Whitley, Special Assistant District Attorney of Wood County, Texas on the 13th day of September, 2012, by hand delivery to the District Attorney's Office in Quitman, Texas.

DOUGLAS H. PARKS