

**BEFORE THE BOARD OF DISCIPLINARY APPEALS
APPOINTED BY
THE SUPREME COURT OF TEXAS**

IN THE MATTER OF § **61642**
JUAN R. RODRIGUEZ § **CAUSE NO.** _____
STATE BAR CARD NO. 24055914 §

PETITION FOR COMPULSORY DISCIPLINE

TO THE BOARD OF DISCIPLINARY APPEALS:

Petitioner, the Commission for Lawyer Discipline (hereinafter called "Petitioner"), brings this action against Respondent, Juan R. Rodriguez, (hereinafter called "Respondent"), showing as follows:

1. This action is commenced by Petitioner pursuant to Part VIII of the Texas Rules of Disciplinary Procedure. Petitioner is also providing Respondent a copy of this Board's procedures for handling a compulsory discipline matter by attaching a copy of such procedures to this petition.

2. Respondent, Juan R. Rodriguez, may be served with a true and correct copy of this Petition for Compulsory Discipline, its attachments, as well as a notice of hearing, at Juan R. Rodriguez, 12318 Bend Creek Lane, Pearland, Texas 77584.

3. On or about May 29, 2018, Respondent was charged by Information/Complaint (Exhibit 1) with Theft of Property \geq \$100 < \$750, in Cause No. 234991M, styled *The State of Texas v. Juan Rodriguez*, in the County Court at Law of Brazoria County, Texas.

4. On or about November 28, 2018, an order Deferring Adjudication (Exhibit 2) was entered in Cause No. 234991, styled *The State of Texas v. Juan Rodriguez*, in the County Court at Law No. 1 of Brazoria County, Texas, wherein Respondent pled guilty to Theft of Property \geq \$100 < \$750, and was placed on Community Supervision for a term of twelve (12) months. Respondent was further ordered to pay restitution in the amount of \$682.23 and a fine of \$400.00.

5. On or about November 28, 2018, a Plea Packet (Exhibit 3) was entered in Cause No. 234991, styled *The State of Texas v. Juan Rodriguez*, in the County Court at Law No. 1 of Brazoria County, Texas.

6. Attached hereto and made a part hereof for all intents and purposes as if the same were copied verbatim herein, are true and correct copies of the following documents in the Rodriguez case: Information/Complaint (Exhibit 1), Order Deferring Adjudication (Exhibit 2) and Plea Packet (Exhibit 3). Petitioner expects to introduce certified copies of Exhibits 1 through 3 at the time of hearing of this cause.

7. Respondent, Juan R. Rodriguez, whose bar card number is 24055914 is the same person as the Juan Rodriguez who is the subject of the Information/Complaint, Order Deferring Adjudication and Plea Packet described above, true and correct copies of which are attached hereto as Exhibits 1 through 3.

8. Attached hereto as Exhibit 4 and made a part hereof for all intents and purposes as if the same were copied verbatim herein is a true and correct copy of an affidavit of Amanda M. Kates, Attorney of Record for Petitioner herein, attesting to the fact that Respondent is the same person as the person who is the subject of the Order Deferring Adjudication entered in the Rodriguez criminal case. Petitioner expects to introduce the original of said affidavit at the time of hearing of this cause.

9. The offense for which Respondent was convicted is an intentional crime as defined by Rule 1.06(T), Texas Rules of Disciplinary Procedure. It is as well a serious crime as defined by Rule 1.06(AA), Texas Rules of Disciplinary Procedure.

10. Having pled guilty to an intentional crime, and such judgment being final, Respondent should be disbarred as provided in Rule 8.05, Texas Rules of Disciplinary Procedure.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Petitioner prays that Respondent be given notice of these proceedings as provided by law and, upon hearing of this matter, that the Board enter its order disbaring Respondent and for such other and further relief to which Petitioner may be entitled to receive including costs of court and attorney's fees.

Respectfully submitted,

Office of the Chief Disciplinary Counsel

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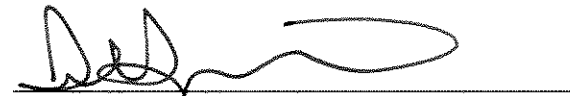


Amanda M. Kates
State Bar Card No.24075987

ATTORNEYS FOR PETITIONER

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument has been sent for personal service on Juan R. Rodriguez, 12318 Bend Creek Lane, Pearland, Texas 77584 on this 19th day of February 2019.



Amanda M. Kates

NOTICE OF HEARING

NOTICE IS HEREBY GIVEN that a trial on the merits of the Petition for Compulsory Discipline heretofore sent to be filed with the Board of Disciplinary Appeals on this day, will be held in the courtroom of the Supreme Court of Texas, Tom C. Clark Building, 14th and Colorado Streets, Austin, Texas, at **9:00 a.m. on the 12th day of April 2019.**


Amanda M. Kates

INTERNAL PROCEDURAL RULES

BOARD OF DISCIPLINARY APPEALS

Current through June 21, 2018

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INTERNAL PROCEDURAL RULES

Board of Disciplinary Appeals

Current through June 21, 2018

I. GENERAL PROVISIONS

Rule 1.01. Definitions

- (a) “BODA” is the Board of Disciplinary Appeals.
- (b) “Chair” is the member elected by BODA to serve as chair or, in the Chair’s absence, the member elected by BODA to serve as vice-chair.
- (c) “Classification” is the determination by the CDC under TRDP 2.10 or by BODA under TRDP 7.08(C) whether a grievance constitutes a “complaint” or an “inquiry.”
- (d) “BODA Clerk” is the executive director of BODA or other person appointed by BODA to assume all duties normally performed by the clerk of a court.
- (e) “CDC” is the Chief Disciplinary Counsel for the State Bar of Texas and his or her assistants.
- (f) “Commission” is the Commission for Lawyer Discipline, a permanent committee of the State Bar of Texas.
- (g) “Executive Director” is the executive director of BODA.
- (h) “Panel” is any three-member grouping of BODA under TRDP 7.05.
- (i) “Party” is a Complainant, a Respondent, or the Commission.
- (j) “TDRPC” is the Texas Disciplinary Rules of Professional Conduct.
- (k) “TRAP” is the Texas Rules of Appellate Procedure.
- (l) “TRCP” is the Texas Rules of Civil Procedure.
- (m) “TRDP” is the Texas Rules of Disciplinary Procedure.
- (n) “TRE” is the Texas Rules of Evidence.

Rule 1.02. General Powers

Under TRDP 7.08, BODA has and may exercise all the powers of either a trial court or an appellate court, as the case may be, in hearing and determining disciplinary proceedings. But TRDP 15.01 [17.01] applies to the enforcement of a judgment of BODA.

Rule 1.03. Additional Rules in Disciplinary Matters

Except as varied by these rules and to the extent applicable, the TRCP, TRAP, and TRE apply to all disciplinary matters before BODA, except for appeals from classification decisions, which are governed by TRDP 2.10 and by Section 3 of these rules.

Rule 1.04. Appointment of Panels

- (a) BODA may consider any matter or motion by panel,

except as specified in (b). The Chair may delegate to the Executive Director the duty to appoint a panel for any BODA action. Decisions are made by a majority vote of the panel; however, any panel member may refer a matter for consideration by BODA sitting en banc. Nothing in these rules gives a party the right to be heard by BODA sitting en banc.

- (b) Any disciplinary matter naming a BODA member as Respondent must be considered by BODA sitting en banc. A disciplinary matter naming a BODA staff member as Respondent need not be heard en banc.

Rule 1.05. Filing of Pleadings, Motions, and Other Papers

- (a) **Electronic Filing.** All documents must be filed electronically. Unrepresented persons or those without the means to file electronically may electronically file documents, but it is not required.

- (1) Email Address. The email address of an attorney or an unrepresented party who electronically files a document must be included on the document.

- (2) Timely Filing. Documents are filed electronically by emailing the document to the BODA Clerk at the email address designated by BODA for that purpose. A document filed by email will be considered filed the day that the email is sent. The date sent is the date shown for the message in the inbox of the email account designated for receiving filings. If a document is sent after 5:00 p.m. or on a weekend or holiday officially observed by the State of Texas, it is considered filed the next business day.

- (3) It is the responsibility of the party filing a document by email to obtain the correct email address for BODA and to confirm that the document was received by BODA in legible form. Any document that is illegible or that cannot be opened as part of an email attachment will not be considered filed. If a document is untimely due to a technical failure or a system outage, the filing party may seek appropriate relief from BODA.

- (4) Exceptions.

- (i) An appeal to BODA of a decision by the CDC to classify a grievance as an inquiry is not required to be filed electronically.

- (ii) The following documents must not be filed electronically:

- a) documents that are filed under seal or subject to a pending motion to seal; and

- b) documents to which access is otherwise restricted by court order.

- (iii) For good cause, BODA may permit a party to file other documents in paper form in a particular case.

- (5) Format. An electronically filed document must:

- (i) be in text-searchable portable document format (PDF);
- (ii) be directly converted to PDF rather than scanned, if possible; and
- (iii) not be locked.

(b) A paper will not be deemed filed if it is sent to an individual BODA member or to another address other than the address designated by BODA under Rule 1.05(a)(2).

(c) **Signing.** Each brief, motion, or other paper filed must be signed by at least one attorney for the party or by the party pro se and must give the State Bar of Texas card number, mailing address, telephone number, email address, and fax number, if any, of each attorney whose name is signed or of the party (if applicable). A document is considered signed if the document includes:

- (1) an “/s/” and name typed in the space where the signature would otherwise appear, unless the document is notarized or sworn; or
- (2) an electronic image or scanned image of the signature.

(d) **Paper Copies.** Unless required by BODA, a party need not file a paper copy of an electronically filed document.

(e) **Service.** Copies of all documents filed by any party other than the record filed by the evidentiary panel clerk or the court reporter must, at or before the time of filing, be served on all other parties as required and authorized by the TRAP.

Rule 1.06. Service of Petition

In any disciplinary proceeding before BODA initiated by service of a petition on the Respondent, the petition must be served by personal service; by certified mail with return receipt requested; or, if permitted by BODA, in any other manner that is authorized by the TRCP and reasonably calculated under all the circumstances to apprise the Respondent of the proceeding and to give him or her reasonable time to appear and answer. To establish service by certified mail, the return receipt must contain the Respondent’s signature.

Rule 1.07. Hearing Setting and Notice

(a) **Original Petitions.** In any kind of case initiated by the CDC’s filing a petition or motion with BODA, the CDC may contact the BODA Clerk for the next regularly available hearing date before filing the original petition. If a hearing is set before the petition is filed, the petition must state the date, time, and place of the hearing. Except in the case of a petition to revoke probation under TRDP 2.23 [2.22], the hearing date must be at least 30 days from the date that the petition is served on the Respondent.

(b) **Expedited Settings.** If a party desires a hearing on a matter on a date earlier than the next regularly available BODA hearing date, the party may request an expedited setting in a written motion setting out the reasons for the

request. Unless the parties agree otherwise, and except in the case of a petition to revoke probation under TRDP 2.23 [2.22], the expedited hearing setting must be at least 30 days from the date of service of the petition, motion, or other pleading. BODA has the sole discretion to grant or deny a request for an expedited hearing date.

(c) **Setting Notices.** BODA must notify the parties of any hearing date that is not noticed in an original petition or motion.

(d) **Announcement Docket.** Attorneys and parties appearing before BODA must confirm their presence and present any questions regarding procedure to the BODA Clerk in the courtroom immediately prior to the time docket call is scheduled to begin. Each party with a matter on the docket must appear at the docket call to give an announcement of readiness, to give a time estimate for the hearing, and to present any preliminary motions or matters. Immediately following the docket call, the Chair will set and announce the order of cases to be heard.

Rule 1.08. Time to Answer

The Respondent may file an answer at any time, except where expressly provided otherwise by these rules or the TRDP, or when an answer date has been set by prior order of BODA. BODA may, but is not required to, consider an answer filed the day of the hearing.

Rule 1.09. Pretrial Procedure

(a) Motions.

(1) Generally. To request an order or other relief, a party must file a motion supported by sufficient cause with proof of service on all other parties. The motion must state with particularity the grounds on which it is based and set forth the relief sought. All supporting briefs, affidavits, or other documents must be served and filed with the motion. A party may file a response to a motion at any time before BODA rules on the motion or by any deadline set by BODA. Unless otherwise required by these rules or the TRDP, the form of a motion must comply with the TRCP or the TRAP.

(2) For Extension of Time. All motions for extension of time in any matter before BODA must be in writing, comply with (a)(1), and specify the following:

- (i) if applicable, the date of notice of decision of the evidentiary panel, together with the number and style of the case;
- (ii) if an appeal has been perfected, the date when the appeal was perfected;
- (iii) the original deadline for filing the item in question;
- (iv) the length of time requested for the extension;
- (v) the number of extensions of time that have been granted previously regarding the item in question; and

(vi) the facts relied on to reasonably explain the need for an extension.

(b) **Pretrial Scheduling Conference.** Any party may request a pretrial scheduling conference, or BODA on its own motion may require a pretrial scheduling conference.

(c) **Trial Briefs.** In any disciplinary proceeding before BODA, except with leave, all trial briefs and memoranda must be filed with the BODA Clerk no later than ten days before the day of the hearing.

(d) **Hearing Exhibits, Witness Lists, and Exhibits Tendered for Argument.** A party may file a witness list, exhibit, or any other document to be used at a hearing or oral argument before the hearing or argument. A party must bring to the hearing an original and 12 copies of any document that was not filed at least one business day before the hearing. The original and copies must be:

- (1) marked;
- (2) indexed with the title or description of the item offered as an exhibit; and
- (3) if voluminous, bound to lie flat when open and tabbed in accordance with the index.

All documents must be marked and provided to the opposing party before the hearing or argument begins.

Rule 1.10. Decisions

(a) **Notice of Decisions.** The BODA Clerk must give notice of all decisions and opinions to the parties or their attorneys of record.

(b) **Publication of Decisions.** BODA must report judgments or orders of public discipline:

- (1) as required by the TRDP; and
- (2) on its website for a period of at least ten years following the date of the disciplinary judgment or order.

(c) **Abstracts of Classification Appeals.** BODA may, in its discretion, prepare an abstract of a classification appeal for a public reporting service.

Rule 1.11. Board of Disciplinary Appeals Opinions

(a) BODA may render judgment in any disciplinary matter with or without written opinion. In accordance with TRDP 6.06, all written opinions of BODA are open to the public and must be made available to the public reporting services, print or electronic, for publishing. A majority of the members who participate in considering the disciplinary matter must determine if an opinion will be written. The names of the participating members must be noted on all written opinions of BODA.

(b) Only a BODA member who participated in the decision of a disciplinary matter may file or join in a written opinion concurring in or dissenting from the judgment of BODA. For purposes of this rule, in hearings in which evidence is taken, no member may participate in

the decision unless that member was present at the hearing. In all other proceedings, no member may participate unless that member has reviewed the record. Any member of BODA may file a written opinion in connection with the denial of a hearing or rehearing en banc.

(c) A BODA determination in an appeal from a grievance classification decision under TRDP 2.10 is not a judgment for purposes of this rule and may be issued without a written opinion.

Rule 1.12. BODA Work Product and Drafts

A document or record of any nature—regardless of its form, characteristics, or means of transmission—that is created or produced in connection with or related to BODA’s adjudicative decision-making process is not subject to disclosure or discovery. This includes documents prepared by any BODA member, BODA staff, or any other person acting on behalf of or at the direction of BODA.

Rule 1.13. Record Retention

Records of appeals from classification decisions must be retained by the BODA Clerk for a period of at least three years from the date of disposition. Records of other disciplinary matters must be retained for a period of at least five years from the date of final judgment, or for at least one year after the date a suspension or disbarment ends, whichever is later. For purposes of this rule, a record is any document, paper, letter, map, book, tape, photograph, film, recording, or other material filed with BODA, regardless of its form, characteristics, or means of transmission.

Rule 1.14. Costs of Reproduction of Records

The BODA Clerk may charge a reasonable amount for the reproduction of nonconfidential records filed with BODA. The fee must be paid in advance to the BODA Clerk.

Rule 1.15. Publication of These Rules

These rules will be published as part of the TDRPC and TRDP.

II. ETHICAL CONSIDERATIONS

Rule 2.01. Representing or Counseling Parties in Disciplinary Matters and Legal Malpractice Cases

(a) A current member of BODA must not represent a party or testify voluntarily in a disciplinary action or proceeding. Any BODA member who is subpoenaed or otherwise compelled to appear at a disciplinary action or proceeding, including at a deposition, must promptly notify the BODA Chair.

(b) A current BODA member must not serve as an expert witness on the TDRPC.

(c) A BODA member may represent a party in a legal malpractice case, provided that he or she is later recused in accordance with these rules from any proceeding before BODA arising out of the same facts.

Rule 2.02. Confidentiality

(a) BODA deliberations are confidential, must not be disclosed by BODA members or staff, and are not subject to disclosure or discovery.

(b) Classification appeals, appeals from evidentiary judgments of private reprimand, appeals from an evidentiary judgment dismissing a case, interlocutory appeals or any interim proceedings from an ongoing evidentiary case, and disability cases are confidential under the TRDP. BODA must maintain all records associated with these cases as confidential, subject to disclosure only as provided in the TRDP and these rules.

(c) If a member of BODA is subpoenaed or otherwise compelled by law to testify in any proceeding, the member must not disclose a matter that was discussed in conference in connection with a disciplinary case unless the member is required to do so by a court of competent jurisdiction

Rule 2.03. Disqualification and Recusal of BODA Members

(a) BODA members are subject to disqualification and recusal as provided in TRCP 18b.

(b) BODA members may, in addition to recusals under (a), voluntarily recuse themselves from any discussion and voting for any reason. The reasons that a BODA member is recused from a case are not subject to discovery.

(c) These rules do not disqualify a lawyer who is a member of, or associated with, the law firm of a BODA member from serving on a grievance committee or representing a party in a disciplinary proceeding or legal malpractice case. But a BODA member must recuse him or herself from any matter in which a lawyer who is a member of, or associated with, the BODA member's firm is a party or represents a party.

III. CLASSIFICATION APPEALS

Rule 3.01. Notice of Right to Appeal

(a) If a grievance filed by the Complainant under TRDP 2.10 is classified as an inquiry, the CDC must notify the Complainant of his or her right to appeal as set out in TRDP 2.10 or another applicable rule.

(b) To facilitate the potential filing of an appeal of a grievance classified as an inquiry, the CDC must send the Complainant an appeal notice form, approved by BODA, with the classification disposition. The form must include the docket number of the matter; the deadline for appealing; and information for mailing, faxing, or emailing the appeal notice form to BODA. The appeal notice form must be available in English and Spanish.

Rule 3.02. Record on Appeal

BODA must only consider documents that were filed with the CDC prior to the classification decision. When a notice of appeal from a classification decision has been filed, the CDC must forward to BODA a copy of the grievance and

all supporting documentation. If the appeal challenges the classification of an amended grievance, the CDC must also send BODA a copy of the initial grievance, unless it has been destroyed.

IV. APPEALS FROM EVIDENTIARY PANEL HEARINGS

Rule 4.01. Perfecting Appeal

(a) **Appellate Timetable.** The date that the evidentiary judgment is signed starts the appellate timetable under this section. To make TRDP 2.21 [2.20] consistent with this requirement, the date that the judgment is signed is the "date of notice" under Rule 2.21 [2.20].

(b) **Notification of the Evidentiary Judgment.** The clerk of the evidentiary panel must notify the parties of the judgment as set out in TRDP 2.21 [2.20].

(1) The evidentiary panel clerk must notify the Commission and the Respondent in writing of the judgment. The notice must contain a clear statement that any appeal of the judgment must be filed with BODA within 30 days of the date that the judgment was signed. The notice must include a copy of the judgment rendered.

(2) The evidentiary panel clerk must notify the Complainant that a judgment has been rendered and provide a copy of the judgment, unless the evidentiary panel dismissed the case or imposed a private reprimand. In the case of a dismissal or private reprimand, the evidentiary panel clerk must notify the Complainant of the decision and that the contents of the judgment are confidential. Under TRDP 2.16, no additional information regarding the contents of a judgment of dismissal or private reprimand may be disclosed to the Complainant.

(c) **Filing Notice of Appeal.** An appeal is perfected when a written notice of appeal is filed with BODA. If a notice of appeal and any other accompanying documents are mistakenly filed with the evidentiary panel clerk, the notice is deemed to have been filed the same day with BODA, and the evidentiary panel clerk must immediately send the BODA Clerk a copy of the notice and any accompanying documents.

(d) **Time to File.** In accordance with TRDP 2.24 [2.23], the notice of appeal must be filed within 30 days after the date the judgment is signed. In the event a motion for new trial or motion to modify the judgment is timely filed with the evidentiary panel, the notice of appeal must be filed with BODA within 90 days from the date the judgment is signed.

(e) **Extension of Time.** A motion for an extension of time to file the notice of appeal must be filed no later than 15 days after the last day allowed for filing the notice of appeal. The motion must comply with Rule 1.09.

Rule 4.02. Record on Appeal

(a) **Contents.** The record on appeal consists of the evidentiary panel clerk's record and, where necessary to the appeal, a reporter's record of the evidentiary panel hearing.

(b) **Stipulation as to Record.** The parties may designate parts of the clerk's record and the reporter's record to be included in the record on appeal by written stipulation filed with the clerk of the evidentiary panel.

(c) Responsibility for Filing Record.

(1) Clerk's Record.

(i) After receiving notice that an appeal has been filed, the clerk of the evidentiary panel is responsible for preparing, certifying, and timely filing the clerk's record.

(ii) Unless the parties stipulate otherwise, the clerk's record on appeal must contain the items listed in TRAP 34.5(a) and any other paper on file with the evidentiary panel, including the election letter, all pleadings on which the hearing was held, the docket sheet, the evidentiary panel's charge, any findings of fact and conclusions of law, all other pleadings, the judgment or other orders appealed from, the notice of decision sent to each party, any postsubmission pleadings and briefs, and the notice of appeal.

(iii) If the clerk of the evidentiary panel is unable for any reason to prepare and transmit the clerk's record by the due date, he or she must promptly notify BODA and the parties, explain why the clerk's record cannot be timely filed, and give the date by which he or she expects the clerk's record to be filed.

(2) Reporter's Record.

(i) The court reporter for the evidentiary panel is responsible for timely filing the reporter's record if:

- a) a notice of appeal has been filed;
- b) a party has requested that all or part of the reporter's record be prepared; and
- c) the party requesting all or part of the reporter's record has paid the reporter's fee or has made satisfactory arrangements with the reporter.

(ii) If the court reporter is unable for any reason to prepare and transmit the reporter's record by the due date, he or she must promptly notify BODA and the parties, explain the reasons why the reporter's record cannot be timely filed, and give the date by which he or she expects the reporter's record to be filed.

(d) Preparation of Clerk's Record.

(1) To prepare the clerk's record, the evidentiary panel clerk must:

- (i) gather the documents designated by the parties'

written stipulation or, if no stipulation was filed, the documents required under (c)(1)(ii);

(ii) start each document on a new page;

(iii) include the date of filing on each document;

(iv) arrange the documents in chronological order, either by the date of filing or the date of occurrence;

(v) number the pages of the clerk's record in the manner required by (d)(2);

(vi) prepare and include, after the front cover of the clerk's record, a detailed table of contents that complies with (d)(3); and

(vii) certify the clerk's record.

(2) The clerk must start the page numbering on the front cover of the first volume of the clerk's record and continue to number all pages consecutively—including the front and back covers, tables of contents, certification page, and separator pages, if any—until the final page of the clerk's record, without regard for the number of volumes in the clerk's record, and place each page number at the bottom of each page.

(3) The table of contents must:

(i) identify each document in the entire record (including sealed documents); the date each document was filed; and, except for sealed documents, the page on which each document begins;

(ii) be double-spaced;

(iii) conform to the order in which documents appear in the clerk's record, rather than in alphabetical order;

(iv) contain bookmarks linking each description in the table of contents (except for descriptions of sealed documents) to the page on which the document begins; and

(v) if the record consists of multiple volumes, indicate the page on which each volume begins.

(e) **Electronic Filing of the Clerk's Record.** The evidentiary panel clerk must file the record electronically. When filing a clerk's record in electronic form, the evidentiary panel clerk must:

(1) file each computer file in text-searchable Portable Document Format (PDF);

(2) create electronic bookmarks to mark the first page of each document in the clerk's record;

(3) limit the size of each computer file to 100 MB or less, if possible; and

(4) directly convert, rather than scan, the record to PDF, if possible.

(f) **Preparation of the Reporter's Record.**

(1) The appellant, at or before the time prescribed for

perfecting the appeal, must make a written request for the reporter's record to the court reporter for the evidentiary panel. The request must designate the portion of the evidence and other proceedings to be included. A copy of the request must be filed with the evidentiary panel and BODA and must be served on the appellee. The reporter's record must be certified by the court reporter for the evidentiary panel.

(2) The court reporter or recorder must prepare and file the reporter's record in accordance with TRAP 34.6 and 35 and the Uniform Format Manual for Texas Reporters' Records.

(3) The court reporter or recorder must file the reporter's record in an electronic format by emailing the document to the email address designated by BODA for that purpose.

(4) The court reporter or recorder must include either a scanned image of any required signature or "/s/" and name typed in the space where the signature would otherwise

(6¹) In exhibit volumes, the court reporter or recorder must create bookmarks to mark the first page of each exhibit document.

(g) **Other Requests.** At any time before the clerk's record is prepared, or within ten days after service of a copy of appellant's request for the reporter's record, any party may file a written designation requesting that additional exhibits and portions of testimony be included in the record. The request must be filed with the evidentiary panel and BODA and must be served on the other party.

(h) **Inaccuracies or Defects.** If the clerk's record is found to be defective or inaccurate, the BODA Clerk must inform the clerk of the evidentiary panel of the defect or inaccuracy and instruct the clerk to make the correction. Any inaccuracies in the reporter's record may be corrected by agreement of the parties without the court reporter's recertification. Any dispute regarding the reporter's record that the parties are unable to resolve by agreement must be resolved by the evidentiary panel.

(i) **Appeal from Private Reprimand.** Under TRDP 2.16, in an appeal from a judgment of private reprimand, BODA must mark the record as confidential, remove the attorney's name from the case style, and take any other steps necessary to preserve the confidentiality of the private reprimand.

¹ So in original.

Rule 4.03. Time to File Record

(a) **Timetable.** The clerk's record and reporter's record must be filed within 60 days after the date the judgment is signed. If a motion for new trial or motion to modify the judgment is filed with the evidentiary panel, the clerk's record and the reporter's record must be filed within 120 days from the date the original judgment is signed, unless

a modified judgment is signed, in which case the clerk's record and the reporter's record must be filed within 60 days of the signing of the modified judgment. Failure to file either the clerk's record or the reporter's record on time does not affect BODA's jurisdiction, but may result in BODA's exercising its discretion to dismiss the appeal, affirm the judgment appealed from, disregard materials filed late, or apply presumptions against the appellant.

(b) If No Record Filed.

(1) If the clerk's record or reporter's record has not been timely filed, the BODA Clerk must send notice to the party responsible for filing it, stating that the record is late and requesting that the record be filed within 30 days. The BODA Clerk must send a copy of this notice to all the parties and the clerk of the evidentiary panel.

(2) If no reporter's record is filed due to appellant's fault, and if the clerk's record has been filed, BODA may, after first giving the appellant notice and a reasonable opportunity to cure, consider and decide those issues or points that do not require a reporter's record for a decision. BODA may do this if no reporter's record has been filed because:

(i) the appellant failed to request a reporter's record; or

(ii) the appellant failed to pay or make arrangements to pay the reporter's fee to prepare the reporter's record, and the appellant is not entitled to proceed without payment of costs.

(c) Extension of Time to File the Reporter's Record.

When an extension of time is requested for filing the reporter's record, the facts relied on to reasonably explain the need for an extension must be supported by an affidavit of the court reporter. The affidavit must include the court reporter's estimate of the earliest date when the reporter's record will be available for filing.

(d) **Supplemental Record.** If anything material to either party is omitted from the clerk's record or reporter's record, BODA may, on written motion of a party or on its own motion, direct a supplemental record to be certified and transmitted by the clerk for the evidentiary panel or the court reporter for the evidentiary panel.

Rule 4.04. Copies of the Record

The record may not be withdrawn from the custody of the BODA Clerk. Any party may obtain a copy of the record or any designated part thereof by making a written request to the BODA Clerk and paying any charges for reproduction in advance.

Rule 4.05. Requisites of Briefs

(a) **Appellant's Filing Date.** Appellant's brief must be filed within 30 days after the clerk's record or the reporter's record is filed, whichever is later.

(b) **Appellee's Filing Date.** Appellee's brief must be filed

within 30 days after the appellant's brief is filed.

(c) Contents. Briefs must contain:

- (1) a complete list of the names and addresses of all parties to the final decision and their counsel;
- (2) a table of contents indicating the subject matter of each issue or point, or group of issues or points, with page references where the discussion of each point relied on may be found;
- (3) an index of authorities arranged alphabetically and indicating the pages where the authorities are cited;
- (4) a statement of the case containing a brief general statement of the nature of the cause or offense and the result;
- (5) a statement, without argument, of the basis of BODA's jurisdiction;
- (6) a statement of the issues presented for review or points of error on which the appeal is predicated;
- (7) a statement of facts that is without argument, is supported by record references, and details the facts relating to the issues or points relied on in the appeal;
- (8) the argument and authorities;
- (9) conclusion and prayer for relief;
- (10) a certificate of service; and
- (11) an appendix of record excerpts pertinent to the issues presented for review.

(d) Length of Briefs; Contents Included and Excluded.

In calculating the length of a document, every word and every part of the document, including headings, footnotes, and quotations, must be counted except the following: caption, identity of the parties and counsel, statement regarding oral argument, table of contents, index of authorities, statement of the case, statement of issues presented, statement of the jurisdiction, signature, proof of service, certificate of compliance, and appendix. Briefs must not exceed 15,000 words if computer-generated, and 50 pages if not, except on leave of BODA. A reply brief must not exceed 7,500 words if computer-generated, and 25 pages if not, except on leave of BODA. A computer generated document must include a certificate by counsel or the unrepresented party stating the number of words in the document. The person who signs the certification may rely on the word count of the computer program used to prepare the document.

(e) Amendment or Supplementation. BODA has discretion to grant leave to amend or supplement briefs.

(f) Failure of the Appellant to File a Brief. If the appellant fails to timely file a brief, BODA may:

- (1) dismiss the appeal for want of prosecution, unless the appellant reasonably explains the failure, and the appellee is not significantly injured by the appellant's

failure to timely file a brief;

(2) decline to dismiss the appeal and make further orders within its discretion as it considers proper; or

(3) if an appellee's brief is filed, regard that brief as correctly presenting the case and affirm the evidentiary panel's judgment on that brief without examining the record.

Rule 4.06. Oral Argument

(a) Request. A party desiring oral argument must note the request on the front cover of the party's brief. A party's failure to timely request oral argument waives the party's right to argue. A party who has requested argument may later withdraw the request. But even if a party has waived oral argument, BODA may direct the party to appear and argue. If oral argument is granted, the clerk will notify the parties of the time and place for submission.

(b) Right to Oral Argument. A party who has filed a brief and who has timely requested oral argument may argue the case to BODA unless BODA, after examining the briefs, decides that oral argument is unnecessary for any of the following reasons:

- (1) the appeal is frivolous;
- (2) the dispositive issue or issues have been authoritatively decided;
- (3) the facts and legal arguments are adequately presented in the briefs and record; or
- (4) the decisional process would not be significantly aided by oral argument.

(c) Time Allowed. Each party will have 20 minutes to argue. BODA may, on the request of a party or on its own, extend or shorten the time allowed for oral argument. The appellant may reserve a portion of his or her allotted time for rebuttal.

Rule 4.07. Decision and Judgment

(a) Decision. BODA may do any of the following:

- (1) affirm in whole or in part the decision of the evidentiary panel;
- (2) modify the panel's findings and affirm the findings as modified;
- (3) reverse in whole or in part the panel's findings and render the decision that the panel should have rendered; or
- (4) reverse the panel's findings and remand the cause for further proceedings to be conducted by:

- (i) the panel that entered the findings; or
- (ii) a statewide grievance committee panel appointed by BODA and composed of members selected from the state bar districts other than the district from which the appeal was taken.

(b) Mandate. In every appeal, the BODA Clerk must issue a mandate in accordance with BODA's judgment and send it to the evidentiary panel and to all the parties.

Rule 4.08. Appointment of Statewide Grievance Committee

If BODA remands a cause for further proceedings before a statewide grievance committee, the BODA Chair will appoint the statewide grievance committee in accordance with TRDP 2.27 [2.26]. The committee must consist of six members: four attorney members and two public members randomly selected from the current pool of grievance committee members. Two alternates, consisting of one attorney and one public member, must also be selected. BODA will appoint the initial chair who will serve until the members of the statewide grievance committee elect a chair of the committee at the first meeting. The BODA Clerk will notify the Respondent and the CDC that a committee has been appointed.

Rule 4.09. Involuntary Dismissal

Under the following circumstances and on any party's motion or on its own initiative after giving at least ten days' notice to all parties, BODA may dismiss the appeal or affirm the appealed judgment or order. Dismissal or affirmance may occur if the appeal is subject to dismissal:

- (a) for want of jurisdiction;
- (b) for want of prosecution; or
- (c) because the appellant has failed to comply with a requirement of these rules, a court order, or a notice from the clerk requiring a response or other action within a specified time.

V. PETITIONS TO REVOKE PROBATION

Rule 5.01. Initiation and Service

(a) Before filing a motion to revoke the probation of an attorney who has been sanctioned, the CDC must contact the BODA Clerk to confirm whether the next regularly available hearing date will comply with the 30-day requirement of TRDP. The Chair may designate a three-member panel to hear the motion, if necessary, to meet the 30-day requirement of TRDP 2.23 [2.22].

(b) Upon filing the motion, the CDC must serve the Respondent with the motion and any supporting documents in accordance with TRDP 2.23 [2.22], the TRCP, and these rules. The CDC must notify BODA of the date that service is obtained on the Respondent.

Rule 5.02. Hearing

Within 30 days of service of the motion on the Respondent, BODA must docket and set the matter for a hearing and notify the parties of the time and place of the hearing. On a showing of good cause by a party or on its own motion, BODA may continue the case to a future hearing date as circumstances require.

VI. COMPULSORY DISCIPLINE

Rule 6.01. Initiation of Proceeding

Under TRDP 8.03, the CDC must file a petition for compulsory discipline with BODA and serve the Respondent in accordance with the TRDP and Rule 1.06 of these rules.

Rule 6.02. Interlocutory Suspension

(a) **Interlocutory Suspension.** In any compulsory proceeding under TRDP Part VIII in which BODA determines that the Respondent has been convicted of an Intentional Crime and that the criminal conviction is on direct appeal, BODA must suspend the Respondent's license to practice law by interlocutory order. In any compulsory case in which BODA has imposed an interlocutory order of suspension, BODA retains jurisdiction to render final judgment after the direct appeal of the criminal conviction is final. For purposes of rendering final judgment in a compulsory discipline case, the direct appeal of the criminal conviction is final when the appellate court issues its mandate.

(b) **Criminal Conviction Affirmed.** If the criminal conviction made the basis of a compulsory interlocutory suspension is affirmed and becomes final, the CDC must file a motion for final judgment that complies with TRDP 8.05.

(1) If the criminal sentence is fully probated or is an order of deferred adjudication, the motion for final judgment must contain notice of a hearing date. The motion will be set on BODA's next available hearing date.

(2) If the criminal sentence is not fully probated:

- (i) BODA may proceed to decide the motion without a hearing if the attorney does not file a verified denial within ten days of service of the motion; or
- (ii) BODA may set the motion for a hearing on the next available hearing date if the attorney timely files a verified denial.

(c) **Criminal Conviction Reversed.** If an appellate court issues a mandate reversing the criminal conviction while a Respondent is subject to an interlocutory suspension, the Respondent may file a motion to terminate the interlocutory suspension. The motion to terminate the interlocutory suspension must have certified copies of the decision and mandate of the reversing court attached. If the CDC does not file an opposition to the termination within ten days of being served with the motion, BODA may proceed to decide the motion without a hearing or set the matter for a hearing on its own motion. If the CDC timely opposes the motion, BODA must set the motion for a hearing on its next available hearing date. An order terminating an interlocutory order of suspension does not automatically reinstate a Respondent's license.

VII. RECIPROCAL DISCIPLINE

Rule 7.01. Initiation of Proceeding

To initiate an action for reciprocal discipline under TRDP Part IX, the CDC must file a petition with BODA and request an Order to Show Cause. The petition must request that the Respondent be disciplined in Texas and have attached to it any information concerning the disciplinary matter from the other jurisdiction, including a certified copy of the order or judgment rendered against the Respondent.

Rule 7.02. Order to Show Cause

When a petition is filed, the Chair immediately issues a show cause order and a hearing notice and forwards them to the CDC, who must serve the order and notice on the Respondent. The CDC must notify BODA of the date that service is obtained.

Rule 7.03. Attorney's Response

If the Respondent does not file an answer within 30 days of being served with the order and notice but thereafter appears at the hearing, BODA may, at the discretion of the Chair, receive testimony from the Respondent relating to the merits of the petition.

VIII. DISTRICT DISABILITY COMMITTEE HEARINGS

Rule 8.01. Appointment of District Disability Committee

(a) If the evidentiary panel of the grievance committee finds under TRDP 2.17(P)(2), or the CDC reasonably believes under TRDP 2.14(C), that a Respondent is suffering from a disability, the rules in this section will apply to the de novo proceeding before the District Disability Committee held under TRDP Part XII.

(b) Upon receiving an evidentiary panel's finding or the CDC's referral that an attorney is believed to be suffering from a disability, the BODA Chair must appoint a District Disability Committee in compliance with TRDP 12.02 and designate a chair. BODA will reimburse District Disability Committee members for reasonable expenses directly related to service on the District Disability Committee. The BODA Clerk must notify the CDC and the Respondent that a committee has been appointed and notify the Respondent where to locate the procedural rules governing disability proceedings.

(c) A Respondent who has been notified that a disability referral will be or has been made to BODA may, at any time, waive in writing the appointment of the District Disability Committee or the hearing before the District Disability Committee and enter into an agreed judgment of indefinite disability suspension, provided that the Respondent is competent to waive the hearing. If the Respondent is not represented, the waiver must include a statement affirming that the Respondent has been advised of the right to appointed counsel and waives that right as well.

(d) All pleadings, motions, briefs, or other matters to be filed with the District Disability Committee must be filed with the BODA Clerk.

(e) Should any member of the District Disability Committee become unable to serve, the BODA Chair must appoint a substitute member.

Rule 8.02. Petition and Answer

(a) **Petition.** Upon being notified that the District Disability Committee has been appointed by BODA, the CDC must, within 20 days, file with the BODA Clerk and serve on the Respondent a copy of a petition for indefinite disability suspension. Service must comply with Rule 1.06.

(b) **Answer.** The Respondent must, within 30 days after service of the petition for indefinite disability suspension, file an answer with the BODA Clerk and serve a copy of the answer on the CDC.

(c) **Hearing Setting.** The BODA Clerk must set the final hearing as instructed by the chair of the District Disability Committee and send notice of the hearing to the parties.

Rule 8.03. Discovery

(a) **Limited Discovery.** The District Disability Committee may permit limited discovery. The party seeking discovery must file with the BODA Clerk a written request that makes a clear showing of good cause and substantial need and a proposed order. If the District Disability Committee authorizes discovery in a case, it must issue a written order. The order may impose limitations or deadlines on the discovery.

(b) **Physical or Mental Examinations.** On written motion by the Commission or on its own motion, the District Disability Committee may order the Respondent to submit to a physical or mental examination by a qualified healthcare or mental healthcare professional. Nothing in this rule limits the Respondent's right to an examination by a professional of his or her choice in addition to any exam ordered by the District Disability Committee.

(1) **Motion.** The Respondent must be given reasonable notice of the examination by written order specifying the name, address, and telephone number of the person conducting the examination.

(2) **Report.** The examining professional must file with the BODA Clerk a detailed, written report that includes the results of all tests performed and the professional's findings, diagnoses, and conclusions. The professional must send a copy of the report to the CDC and the Respondent.

(c) **Objections.** A party must make any objection to a request for discovery within 15 days of receiving the motion by filing a written objection with the BODA Clerk. BODA may decide any objection or contest to a discovery motion.

Rule 8.04. Ability to Compel Attendance

The Respondent and the CDC may confront and cross-examine witnesses at the hearing. Compulsory process to compel the attendance of witnesses by subpoena, enforceable by an order of a district court of proper jurisdiction, is available to the Respondent and the CDC as provided in TRCP 176.

Rule 8.05. Respondent's Right to Counsel

(a) The notice to the Respondent that a District Disability Committee has been appointed and the petition for indefinite disability suspension must state that the Respondent may request appointment of counsel by BODA to represent him or her at the disability hearing. BODA will reimburse appointed counsel for reasonable expenses directly related to representation of the Respondent.

(b) To receive appointed counsel under TRDP 12.02, the Respondent must file a written request with the BODA Clerk within 30 days of the date that Respondent is served with the petition for indefinite disability suspension. A late request must demonstrate good cause for the Respondent's failure to file a timely request.

Rule 8.06. Hearing

The party seeking to establish the disability must prove by a preponderance of the evidence that the Respondent is suffering from a disability as defined in the TRDP. The chair of the District Disability Committee must admit all relevant evidence that is necessary for a fair and complete hearing. The TRE are advisory but not binding on the chair.

Rule 8.07. Notice of Decision

The District Disability Committee must certify its finding regarding disability to BODA, which will issue the final judgment in the matter.

Rule 8.08. Confidentiality

All proceedings before the District Disability Committee and BODA, if necessary, are closed to the public. All matters before the District Disability Committee are confidential and are not subject to disclosure or discovery, except as allowed by the TRDP or as may be required in the event of an appeal to the Supreme Court of Texas.

IX. DISABILITY REINSTATEMENTS

Rule 9.01. Petition for Reinstatement

(a) An attorney under an indefinite disability suspension may, at any time after he or she has been suspended, file a verified petition with BODA to have the suspension terminated and to be reinstated to the practice of law. The petitioner must serve a copy of the petition on the CDC in the manner required by TRDP 12.06. The TRCP apply to a reinstatement proceeding unless they conflict with these rules.

(b) The petition must include the information required by TRDP 12.06. If the judgment of disability suspension

contained terms or conditions relating to misconduct by the petitioner prior to the suspension, the petition must affirmatively demonstrate that those terms have been complied with or explain why they have not been satisfied. The petitioner has a duty to amend and keep current all information in the petition until the final hearing on the merits. Failure to do so may result in dismissal without notice.

(c) Disability reinstatement proceedings before BODA are not confidential; however, BODA may make all or any part of the record of the proceeding confidential.

Rule 9.02. Discovery

The discovery period is 60 days from the date that the petition for reinstatement is filed. The BODA Clerk will set the petition for a hearing on the first date available after the close of the discovery period and must notify the parties of the time and place of the hearing. BODA may continue the hearing for good cause shown.

Rule 9.03. Physical or Mental Examinations

(a) On written motion by the Commission or on its own, BODA may order the petitioner seeking reinstatement to submit to a physical or mental examination by a qualified healthcare or mental healthcare professional. The petitioner must be served with a copy of the motion and given at least seven days to respond. BODA may hold a hearing before ruling on the motion but is not required to do so.

(b) The petitioner must be given reasonable notice of the examination by written order specifying the name, address, and telephone number of the person conducting the examination.

(c) The examining professional must file a detailed, written report that includes the results of all tests performed and the professional's findings, diagnoses, and conclusions. The professional must send a copy of the report to the parties.

(d) If the petitioner fails to submit to an examination as ordered, BODA may dismiss the petition without notice.

(e) Nothing in this rule limits the petitioner's right to an examination by a professional of his or her choice in addition to any exam ordered by BODA.

Rule 9.04. Judgment

If, after hearing all the evidence, BODA determines that the petitioner is not eligible for reinstatement, BODA may, in its discretion, either enter an order denying the petition or direct that the petition be held in abeyance for a reasonable period of time until the petitioner provides additional proof as directed by BODA. The judgment may include other orders necessary to protect the public and the petitioner's potential clients.

X. APPEALS FROM BODA TO THE SUPREME COURT OF TEXAS

Rule 10.01. Appeals to the Supreme Court

(a) A final decision by BODA, except a determination that a statement constitutes an inquiry or a complaint under TRDP 2.10, may be appealed to the Supreme Court of Texas. The clerk of the Supreme Court of Texas must docket an appeal from a decision by BODA in the same manner as a petition for review without fee.

(b) The appealing party must file the notice of appeal directly with the clerk of the Supreme Court of Texas within 14 days of receiving notice of a final determination by BODA. The record must be filed within 60 days after BODA's determination. The appealing party's brief is due 30 days after the record is filed, and the responding party's brief is due 30 days thereafter. The BODA Clerk must send the parties a notice of BODA's final decision that includes the information in this paragraph.

(c) An appeal to the Supreme Court is governed by TRDP 7.11 and the TRAP.

COMPLAINT

NO 234991M

Control No 2018-04787 PID 1408024
TRN 0121947475 TRS A001

THE STATE OF TEXAS VS **JUAN RODRIGUEZ**
12318 BEND CREEK LN
PEARLAND TX 77584

CHARGE **THEFT PROP > = \$100 < \$750 - MB (23990191)**
SEX/RACE **Male/White** DOB **09/14/1977**
AGENCY **Pearland Police Department** WARRANT# **F021311**

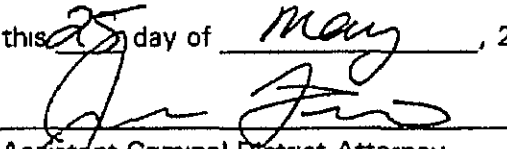
IN THE NAME AND BY AUTHORITY OF THE STATE OF TEXAS

BEFORE the undersigned authority, on this day personally appeared A Mooney, herein called "Affiant" who, after being by me duly sworn, on oath deposes and says That the Affiant has good reason to believe and does believe and charge that heretofore, on or about the 3rd day of April, 2018, and before the making and filing of this Complaint in the County of Brazoria and the State of Texas, that one **JUAN RODRIGUEZ** did then and there unlawfully appropriate, by acquiring or otherwise exercising control over, property, namely, an iPad, owned by Valene Melgares, hereinafter styled the owner, with intent to deprive the owner of said property, and without the effective consent of the owner and said property having the value of at least One Hundred and No/100 (\$100 00) but less than Seven Hundred Fifty and No/100 (\$750 00) Dollars,

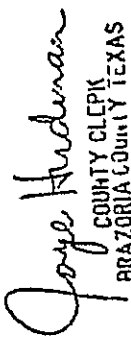
against the peace and dignity of the State

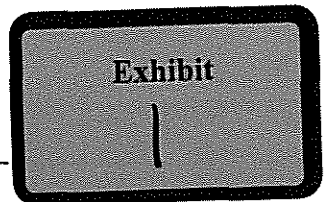

COMPLAINANT

Sworn to and subscribed before me this 25 day of May, 2018


Assistant Criminal District Attorney
Brazoria, County, Texas

FILED FOR RECORD
2018 MAY 29 AM 8 48


JOYCE HUDSON
COUNTY CLERK
BRAZORIA COUNTY TEXAS



INFORMATION

NO 234991 M

THE STATE OF TEXAS VS **JUAN RODRIGUEZ**
12318 BEND CREEK LN
PEARLAND TX 77584

CHARGE **THEFT PROP > = \$100 < \$750 - MB**

SEX/RACE Male/White DOB 09/14/1977

AGENCY Pearland Police Department

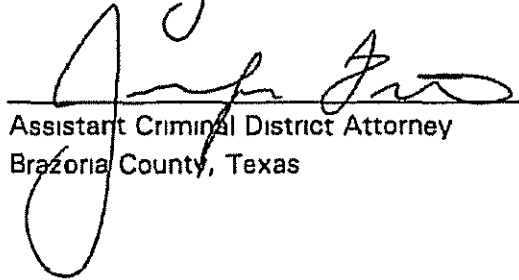
WARRANT# F021311

IN THE NAME AND BY AUTHORITY OF THE STATE OF TEXAS

I, the undersigned Assistant Criminal District Attorney of Brazoria County, Texas, now here in the County Court of Brazoria County, thereof do present this information on the written affidavit of A Mooney, a competent and credible person, herewith filed in said Court, upon my oath, do present in and to said Court that heretofore, on or about the **3rd day of April, 2018**, and before the making and filing of this Information in the County of Brazoria and the State of Texas, that one **JUAN RODRIGUEZ**, the defendant did then and there unlawfully appropriate, by acquiring or otherwise exercising control over, property, namely, an iPad, owned by Valere Melgares, hereinafter styled the owner, with intent to deprive the owner of said property, and without the effective consent of the owner and said property having the value of at least One Hundred and No/100 (\$100 00) but less than Seven Hundred Fifty and No/100 (\$750 00) Dollars,

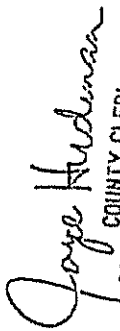
against the peace and dignity of the State

WITNESS MY HAND this 25 day of May, 2018


Assistant Criminal District Attorney
Brazoria County, Texas

FILED FOR RECORD

2018 MAY 29 AM 8 48


JOYCE HUDSON
COUNTY CLERK
BRAZORIA COUNTY TEXAS

CAUSE NO 234991

THE STATE OF TEXAS

vs Juan Rodriguez

§
§
§

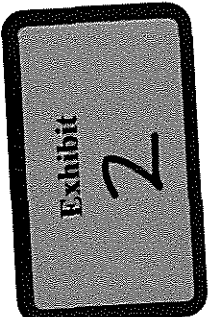
IN THE COUNTY/COURT
AT LAW NO 1 OF
BRAZORIA COUNTY TEXAS

ORDER DEFERRING ADJUDICATION

On the 28 day of November, 2018 this cause was called for trial whereupon the State of Texas by and through its Assistant Criminal District Attorney DARIN ROGERS and the Defendant JUAN RODRIGUEZ in person (having knowingly, intelligently and voluntarily waived the right to counsel) (by and through counsel of record CHARLES PELDUSKI) appeared in court. Whereupon the Court proceeded to ~~swear~~ the Defendant by fixing his identity and hearing his plea of (guilty) (~~not~~ ~~commence~~) to the charge of Ineff Prop = \$100,000 Class B having been committed on the 3 day of April, 2018. And both sides having announced ready for trial the Defendant in open court waived in writing a trial by jury and requested that his cause be submitted to the court for decision. And the Defendant waived the reading of the information and after having been duly admonished of the consequences thereof by the Court insisted on entering his plea to said charge as alleged in the information. And it appearing to the Court that the Defendant is sane and uninfluenced by any consideration of fear or by persuasion or delusive hope of pardon prompting him to enter such plea the Court accepted such plea and entered the same on the docket of the Court. It being the opinion of the Court that the ends of justice and the best interest of society as well as that of the Defendant will be served by granting the said Defendant community supervision the Court hereby grants the Defendant community supervision.

It is therefore ORDERED ADJUDGED AND DECREED by the Court that no judgment shall be entered on such finding of guilt at this time but that the said Defendant shall be placed on community supervision under the terms of Article 42.12 Code of Criminal Procedure for a period of 12 (months/years). It is the order of the Court that during the term of this community supervision the Defendant shall

- A Commit no offense against the laws of this State or any other State of the United States or of any government entity
- B Avoid injurious or vicious conduct and totally abstain from the use or consumption of alcoholic beverages of any kind or any substance capable of or calculated to cause intoxication or the illegal use of any controlled substance
- C Avoid persons of disreputable or harmful character including but not limited to persons on community supervision or parole or who have been previously convicted of a crime or who have a history or reputation for violating the laws of this State or of any other State of the United States except in the course of legitimate business or as directed by the Court and specifically avoid contact or association of any type with _____
- D Avoid places of disreputable or harmful character including but not limited to any place where unlawful activities are being conducted or any place where alcoholic beverages are sold served or delivered for on premise consumption except bona fide eating establishments where you will remain only for such length of time as is reasonably necessary for the consumption of food ordered by or served by you
- E Obey all rules regulations and policies of the Brazoria County Community Supervision and Corrections Department
- F Submit to fingerprinting and photograph processing
- G Furnish the Supervision Officer with accurate and truthful information concerning background and present status
- H Report to the Supervision Officer this date and on the 26 day of each month during the period of the community supervision and at said time submit an accurately completed and signed Monthly Report to the Supervision Officer
- I Report monthly total income and expenses and the source of all income to the Supervision Officer
- J Notify your Supervision Officer within five (5) days if questioned by any peace officer or after any charge of violating any law has been made against you stating the offense charged the jurisdiction in which the charge is filed and the disposition or status of the charge
- K Do not enter into any agreement to act as informer or special agent for any peace officer or law enforcement agency
- L Reside within Brazoria County Texas and do not change place of residence within said County without first notifying the Supervision Officer. Must report in Brazoria County
- M Do not leave the State of Texas without first obtaining permission in writing from the Supervision Officer showing that the Court authorizes such removal and do not leave the county of court approved residence for longer than seventy-two (72) hours without first obtaining permission in writing from the Supervision Officer showing that the Court authorizes such removal
- N Permit the Supervision Officer to visit you at your home or elsewhere
- O Seek suitable employment in some lawful occupation work faithfully to perform the duties of the employment and maintain a standard of personal appearance that will not impede you in obtaining and/or maintaining employment specifically do not make any job change without first notifying the Supervision Officer and if terminated notify the Supervision Officer by the next business day thereafter documenting daily efforts to secure employment and do secure another employment within a period of sixty (60) days
- P Support the dependents that you now have or that you acquire during the term of this community supervision
- Q Submit to a period of detention in the County Jail of Brazoria County Texas to serve a term of incarceration of _____ days (credit for _____ days served) to begin on the _____ day of _____ to be served as follows _____
- R Pay the following
 - 1 COMMUNITY SUPERVISION FEE of \$80.00 per month during the term of your community supervision payments to be made on the 28 day of each month beginning December, 2018
 - 2 FINE of \$ 4000 and all COURT COSTS ATTORNEY'S FEES of \$ 0 to be taxed as court costs. All FINE and COURT COSTS including ATTORNEY'S FEES shall be made payable through the Brazoria County Collections Department per the Payment Extension Agreement unless paid in full on day of plea



- 3. RESTITUTION of \$ 632.23 ^{100.00} per month until paid in full, payments to be made on the 28 day of each month beginning January, 2019, payable through the Brazoria County Community Supervision and Corrections Department of this County, to be paid to the victims in the respective sums of money as is listed in the Restitution Schedule attached hereto.
 - 4. CRIME STOPPER FEE of \$ 250.00 (no more than \$50.00) payable to CRIME STOPPERS through Brazoria County Community Supervision and Corrections Department on or before thirty (30) days from this date or by 12.28.18 whichever is later.
- S. Freely cooperate and voluntarily submit a breath/blood test and/or urinalysis immediately upon arrest for any offense, or when requested by the Supervision Officer, such request not to exceed once a week, to determine whether or not you are using or are under the influence of alcohol or any controlled substance, and pay the assessed fee to the Brazoria County Community Supervision and Corrections Department.

And furthermore, during the term of your community supervision you shall strictly follow and observe the following marked terms and conditions:

- T. Enroll in and complete the Drug Abuse Education Program of the Brazoria County Community Supervision and Corrections Department within 180 days of this date and pay the established fee for said classes on or before 90 days after completion.
- U. Attend and successfully complete the DWI education classes of the supervising Brazoria County Community Supervision and Corrections Department within 180 days of this date and pay the established fee for said classes on or before 90 days of completion.
- V. Work faithfully, without compensation, at a Community Service Task assigned by the Court; specifically, work 24 hours at a rate of sixteen (16) hours per month.
- W. Complete an Alcohol/Drug Evaluation as directed by the Brazoria County Community Supervision and Corrections Department and pay the assessed fee on or before 90 days after said evaluation.
- X. If the course evaluation indicates the need, at your own expense, you shall submit to an evaluation by a certified Alcohol/Drug Counselor within sixty (60) days and follow recommendations of said evaluation.
- Y. Participate in, complete, and pay the assessed fee for the Driving While Intoxicated Intervention Program within 180 days.
- Z1. Your driver's license shall be suspended for _____ days.
- Z2. Your driver's license shall not be suspended if you comply with all the terms of community supervision.
- AA. Participate in a community based program, to-wit: take the Adult Placement Indicator test within thirty (30) days to demonstrate whether you have an educational skill level equal to or greater than the average skill level of students who have completed the sixth grade in public schools. If the test reveals the skill level is not attained, the Court shall enter further orders as necessary.
- BB. Participate in a Victim Impact Panel within 180 days.
- CC. The Defendant shall install, at his or her own expense, on the motor vehicle owned by the Defendant or on the vehicle most driven by the Defendant, a device that uses a deep lung breath analysis mechanism to make impractical the operation of a motor vehicle if ethyl alcohol is detected in the breath. The device will be installed in the vehicle before the 30th day from the date of this judgment and Defendant shall provide proof of such installation to the Court before the 30th day from the date of this judgment. The deep lung breath analysis mechanism must remain upon the vehicle until further order of this Court but in no case less than one half of the period of community supervision;
- DD. The Court specifically finds that the best interest of justice would be served by not requiring the Defendant to install on the motor vehicle owned by the Defendant or on the vehicle most driven by the Defendant, a device that uses a deep lung breath analysis mechanism to make impractical the operation of a motor vehicle if ethyl alcohol is detected in the breath. The Court makes this finding upon the following reasons: _____
- EE. The Defendant will not operate any motor vehicle that does not have installed a device that uses a deep lung breath analysis mechanism to make impractical the operation of a motor vehicle if ethyl alcohol is detected in the breath;
- FF. The Defendant shall successfully complete an Anger Management Anti-Theft Class within 180 days of this order as directed by the Court.
- GG. The Defendant shall have no contact with _____
- HH. The Defendant shall appear for a probation compliance review hearing on _____ at _____ o'clock _____ m.
- II. No Early Termination

You are hereby advised that under the law of this State, the Court has determined the terms and conditions of your community supervision and may at any time during the period of community supervision alter or modify the conditions of your community supervision. The Court also has the authority at any time during the period of your community supervision to revoke your community supervision for violation of any of the conditions set out.

SIGNED this 28 day of November, 2018

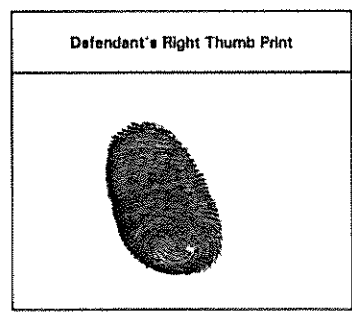
J. Mills
JUDGE PRESIDING

I ACKNOWLEDGE RECEIPT FROM THE CLERK OF A COPY OF MY CONDITIONS OF COMMUNITY SUPERVISION.

[Signature]
PROBATIONER

[Signature]
SUPERVISION OFFICER

DEPUTY COUNTY CLERK



CAUSE NO 234991

DEFENDANT Juan Rodriguez

RESTITUTION SCHEDULE

NAME Valerie Melgares
ADDRESS 1917 Cayman Bend Lane Pearland, TX 77884
PHONE 832-654-3901
NOTE
AMOUNT \$632.23 Total, \$100.00 Monthly

NAME _____
ADDRESS _____
PHONE _____
NOTE _____
AMOUNT _____

NAME _____
ADDRESS _____
PHONE _____
NOTE _____
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NAME _____
ADDRESS _____
PHONE _____
NOTE _____
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CASE NO 234991

THE STATE OF TEXAS

IN THE COUNTY COURT AT LAW # 1

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Juan Rodriguez v.
DEFENDANT

OF BRAZORIA COUNTY, TEXAS

NOTICE OF JUDICIAL CLEMENCY FOR DEFENDANTS PLACED ON COMMUNITY SUPERVISION (PROBATION)

You are hereby notified that if the court determines that you have satisfactorily fulfilled the conditions of your community supervision (hereinafter "probation"), upon expiration of your probation, if certain requirements are met, you may be able to receive judicial clemency from the court

Under Article 42A 701, Code of Criminal Procedure, the Court may use its discretion to exercise judicial clemency in terminating your probation if

- 1 The court determines that you have satisfactorily fulfilled the conditions of your probation,
- 2 The term of your probation has expired, including any amended or modified term of your probation,
- 3 The court discharges you from probation, and
- 4 The court sets aside the verdict in your case or permits you to withdraw your plea

If the above requirements are met, the Court is authorized to dismiss the accusation, complaint, information, or indictment against you and to release you from all penalties and disabilities resulting from your conviction or plea. However, if the court releases you from the consequences of your conviction or plea, if you are subsequently convicted of another offense, your conviction or plea will be made known to the judge, and if you are an applicant for or holder of a license issued by the Department of Family and Protective Services (hereinafter "Department"), the Department may consider that you previously received probation as a factor in issuing, renewing, denying, or revoking a license

SIGNED AND DATED on the 28 day of November, 2018
[Signature]
JUDGE PRESIDING

DEFENDANTS CONVICTED OF CERTAIN OFFENSES INVOLVING THE USE OF ALCOHOL (SECTIONS 49 04-49 08, CCP), AN OFFENSE REQUIRING REGISTRATION AS A SEX OFFENDER, OR A FELONY DESCRIBED BY ARTICLE 42A 054, CCP, ARE NOT ENTITLED TO THIS ADMONISHMENT AND ARE INELIGIBLE FOR JUDICIAL CLEMENCY FROM A JUDGE



FILED
AT 10:50 O'CLOCK A.M.

NOV 28 2018

J. [Signature]
COUNTY CLERK
BRAZORIA COUNTY TEXAS

Date

11-28-18

[Convicting Court]

CC #1

[Defendant - Print Name]

Juan Rodriguez

[Defendant's Attorney - Print Name]

Charles Pelowski

Via Hand-Delivery
Via Certified Mail - Return Receipt Requested
Receipt No. _____

Via Hand-Delivery
Via Certified Mail - Return Receipt Requested
Receipt No. _____

Via Hand-Delivery
Via Certified Mail - Return Receipt Requested
Receipt No. _____

COURT'S NOTICE REGARDING AGREED DISPOSITION OF EVIDENCE

Re

Disposition of evidence Cause No

234991

Agency & Case No

Portland-18003247

Brazoria County Crime Lab No _____

Pursuant to the Texas Code of Criminal Procedure

Dear Interested Persons

Pursuant to the Texas Code of Criminal Procedure, this letter is notification of the planned destruction of all evidence in the above-disposed case, whether it is known to contain biological material or not, and the planned destruction or forfeiture of all other evidence that was collected and/or seized during the investigation of the crime in the above-referenced cause number and court. By the agreement of the State and Defense, the evidence will be destroyed and/or forfeited unless an objection to the planned destruction and/or forfeiture is received from you within ninety-one (91) days upon receiving this notice. The Court hereby gives notice of this retention and preservation period.

[Signature]
Judge Presiding

NOTICE RECEIVED AND AGREED TO BY

[Assistant District Attorney]

[Date Signed]

[Signature]
11-28-18

[Defendant]

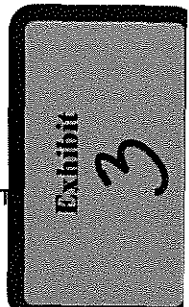
[Date Signed]

[Signature]
11-28-18

[Defendant's Attorney]

[Date Signed]

[Signature]
11-28-18



No. 234991

THE STATE OF TEXAS

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IN THE DISTRICT COURT

COUNTY COURT AT LAW NUMBER 1

BRAZORIA COUNTY, TEXAS

v. Juan Rodriguez
Defendant

TRIAL COURT'S CERTIFICATION OF DEFENDANT'S RIGHT OF APPEAL*

I, judge of the trial court, certify this criminal case

is not a plea-bargain case, and the defendant has the right of appeal [OR]

is a plea-bargain case, but matters were raised by written motion filed and ruled on before trial and not withdrawn or waived, and the defendant has the right of appeal [OR]

is a plea-bargain case, but the trial court has given permission to appeal, and the defendant has the right of appeal [OR]

is a plea-bargain case, and the defendant has NO right to appeal [OR]

the defendant has waived the right of appeal

FILED
AT 10:50 O'CLOCK A.M.

NOV 28 2018

J. Mills
Judge

11 28 18
Date Signed
J. [Signature]
COUNTY CLERK
BRAZORIA COUNTY TEXAS

I have received a copy of this certification I have also been informed of my rights concerning any appeal of this criminal case, including any right to file a *pro se* petition for discretionary review pursuant to Rule 68 of the Texas Rules of Appellate Procedure I have been admonished that my attorney must mail a copy of the court of appeals' judgment and opinion to my last known address and that I have only 30 days in which to file a *pro se* petition for discretionary review in the Court of Criminal Appeals TEX R APP P 68 2 I acknowledge that, if I wish to appeal this case and if I am entitled to do so, it is my duty to inform my appellate attorney, by written communication, of any change in the address at which I am currently living or any change in my current prison unit I understand that, because of appellate deadlines, if I fail to timely inform my appellate attorney of any change in my address, I may lose the opportunity to file a *pro se* petition for discretionary review

X [Signature]
Defendant

X [Signature]
Defendant's Counsel

12318 Bend Creek LN
Mailing address PEARLAND TX 77584

513-720-4795
Telephone Number

Fax Number (if any)

24061053
State Bar of Texas ID number

6302 W BROADWAY ST STE 250
Mailing address PEARLAND TX 77581

(832) 554-1283
Telephone Number

(832) 554-1282
Fax Number (if any)

* "A defendant in a criminal case has the right of appeal under these rules The trial court shall enter a certification of the defendant's right to appeal in every case in which it enters a judgment of guilt or other appealable order In a plea bargain case—that is, a case in which a defendant's plea was guilty or nolo contendere and the punishment did not exceed the punishment recommended by the prosecutor and agreed to by the defendant—a defendant may appeal only (A) those matters that were raised by written motion filed and ruled on before trial, or (B) after getting the trial court's permission to appeal " TEX R APP P 25 2(a)(2)

CAUSE NO 234991

THE STATE OF TEXAS

§

IN COUNTY COURT

vs.

§

AT LAW NO L OF

Juan Rodriguez

§

BRAZORIA COUNTY, TEXAS

COURT'S NOTICE TO DEFENDANT AFTER PRONOUNCING SENTENCE

The Court, after pronouncing sentence herein, hereby informs the Defendant of the following pursuant to Article 42.03, Code of Criminal Procedure: You have the right to petition the court for an order of nondisclosure of criminal history record information under Subchapter E-1, Chapter 411, Government Code, unless you are ineligible to pursue that right because of the requirements that apply to obtaining the order in your circumstances, such as the nature of the offense for which you are convicted, or your criminal history.

Signed this 28 day of November, 2018.

[Signature]
Judge Presiding

FILED
AT 10:00 O'CLOCK AM

NOV 28 2018

[Signature]
COUNTY CLERK
BRAZORIA COUNTY TEXAS

CAUSE NO 234991

THE STATE OF TEXAS

IN THE COUNTY COURT AT LAW # 1

Juan Rodriguez

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BRAZORIA COUNTY, TEXAS

WAIVER OF RISK AND NEEDS ASSESSMENT IN ARTICLE 42A 301(a) TEXAS CCP

I am the Defendant accused of a misdemeanor in the above styled- and numbered-cause and I have either 1) consulted with my attorney, whose name is signed below regarding the applicability of Article 42A 301(a) of the Texas Code of Criminal Procedure to my case, OR 2) I have waived my right to an attorney in writing but have been made aware of the applicability of Article 42A 301(a) of the Texas Code of Criminal Procedure to my case I further understand that Article 42A 301(a) provides that prior to being placed on community supervision the judge of the court having jurisdiction shall determine the conditions of my community supervision after considering the results of a validated instrument for the purpose of determining my risks and needs I further understand that the judge may impose any condition that is not duplicative of another condition and that is designed to protect or restore the community, protect or restore the victim, or punish, rehabilitate, or reform me I further understand that the judge shall consider the extent to which the conditions of community supervision impact my work, education, and community service schedule, and my ability to meet my financial obligations while on community supervision I also understand that the Court need not consider a validated risk and needs assessment prior to me being placed on community supervision if I request that it not be considered, and the Court agrees to my request I understand that the Court may order that a pre-sentence risk and needs assessment be considered though it is my desire to waive it I further understand that if I request that a pre-sentence risk and needs assessment be considered, the Court shall consider the results of the assessment prior to me being placed on community supervision Finally, I understand that a validated risk and needs assessment shall be conducted and prepared after I am placed on community supervision

I do hereby knowingly and voluntarily waive my right for the Court to consider the results of a validated risk and needs assessment prior to me being placed on community supervision and expressly request that a validated risk and needs assessment not be prepared or considered by the Court as required in Article 42A 301(a) Texas Code of Criminal Procedure

[Signature]
Attorney for Defendant

[Signature]
Defendant

FILED
AT 10:00 CLOCK A M

NOV 28 2018

[Signature]
COUNTY CLERK
BRAZORIA COUNTY TEXAS

[Signature]
Attorney for the State

The Court hereby agrees to the Defendant's request that no validated risk and needs assessment be considered by the Court prior to the defendant being placed on community supervision in the above styled and numbered cause

Signed this 28 day of November, 2018

[Signature]
Judge Presiding

Cause No 234991

THE STATE OF TEXAS

§

IN THE COUNTY COURT

vs Juan Rodriguez

§

AT LAW NUMBER 1

§

BRAZORIA COUNTY, TEXAS

ARTICLE 39.14 DISCOVERY COMPLIANCE DOCUMENTATION

Before entering a plea of guilty or nolo contendere, or before trial, the parties herein, the State and the Defense, hereby acknowledge in writing the disclosure, receipt, and list of documents, items and information provided to the defendant as follows (check items provided)

- PROBABLE CAUSE COMPLAINT
- OFFENSE REPORTS & OFFENSE SUPPLEMENTS
- WITNESS STATEMENTS
- REPORTS OF SCIENTIFIC TESTING AND ANALYSIS
- PHOTOGRAPHS
- BUSINESS RECORDS
- STATEMENT OF DEFENDANT
- ELECTRONIC / AUDIO / VIDEO RECORDINGS / DIGITAL MEDIA OBTAINED BY LAW ENFORCEMENT PERTAINING TO THE OFFENSE
- REVOCATION / MOTION ADJUDICATE GUILT DOCUMENTATION
- THE OPPORTUNITY TO VIEW AND INSPECT THE STATE'S FILE AND ITS CONTENTS IN THIS CASE, INCLUDING OFFENSE MATERIALS AND STATEMENTS, PRIOR TO ENTERING A PLEA OR BEFORE TRIAL
- ANY ITEMS REFLECTED ON THE DISCOVERY COMPLIANCE RECEIPT(S)
- OTHER

FILED
AT 10:20 O'CLOCK AM
NOV 28 2018
[Signature]
COUNTY CLERK
BRAZORIA COUNTY TEXAS

Please See Attached

Additionally, I acknowledge the State has maintained an open file in this case with the opportunity to view and inspect the same for additional information

Signed this 28 day of November, 2018

[Signature]
ATTORNEY FOR DEFENDANT

[Signature]
ATTORNEY FOR THE STATE

06/14/2018 02 19 92818095614

Cause No 234991

Filed for Record
6/25/2018 1:44 PMPAGE 02/03
Joyce Hudman County Clerk
Brazoria County Texas
234991
Christa Cloud Deputy

THE STATE OF TEXAS

§

IN THE COUNTY COURT

VS

§

COURT AT LAW # 1

JUAN RODRIGUEZ

§

BRAZORIA COUNTY, TEXAS

COPY

ARTICLE 39.14 REQUEST FOR DISCOVERY

Pursuant to Article 39.14 of the Code of Criminal Procedure, I hereby make a timely request for discovery of information in the above cause

Date June 14, 2018

Signature /s/ Charles Pelowski

Printed Name Charles Pelowski

Attorney or Individual Authorized on Behalf of
Defendant's Attorney
Retained

Phone Number(s) (832) 554-1283

DISCOVERY COMPLIANCE RECEIPT

FILED
ATLUSCLOCK AM

Article 39 14 discovery compliance documentation

NOV 28 2018

- PROBABLE CAUSE/ COMPLAINT / INDICTMENT / INFORMATION
- OFFENSE REPORTS & OFFENSE SUPPLEMENTS
- WITNESS STATEMENTS *KL*
- REPORTS OF SCIENTIFIC TESTING AND ANALYSIS
- OPPORTUNITY TO REVIEW ANY PHYSICAL EVIDENCE OBTAINED IN CONNECTION WITH THE OFFENSE
- PHOTOGRAPHS
- BUSINESS RECORDS
- STATEMENT OF DEFENDANT
- ELECTRONIC / AUDIO / VIDEO RECORDINGS / DIGITAL MEDIA OBTAINED BY LAW ENFORCEMENT PERTAINING TO THE OFFENSE
- REVOCATION / MOTION TO ADUDICATE GUILT DOCUMENTATION
- OTHER

J. Hudman
COUNTY CLERK
BRAZORIA COUNTY TEXAS

5+pg. Page records, 7+ phone screenshots,

I have received the above items as checked

6/25/18
Date

Charles Pelowski / JP
Signature of Attorney or Individual Authorized on behalf of
Defendant's Attorney

Charles Pelowski / JP
Printed Name

This disclosure shall not include physical copies of information privileged or prohibited by law, such as physical copies of criminal histories, information set forth under article 39 15, C C P , article 38 45 C C P , section 264 408 Family Code, Children's Protective Service Records, medical records or information the possession of which is prohibited by law and for which a hearing will be necessary

CAUSE NO 234991

THE STATE OF TEXAS

IN THE COUNTY COURT AT LAW

vs
Juan Rodriguez

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§
§
§

NUMBER 1

BRAZORIA COUNTY, TEXAS

MOTION / APPLICATION FOR COMMUNITY SUPERVISION

THE STATE OF TEXAS §

FILED
AT 10:00 O'CLOCK AM

COUNTY OF BRAZORIA §

NOV 28 2018

TO THE HONORABLE JUDGE OF SAID COURT

[Signature]
COUNTY CLERK

NOW COMES the defendant in the above-styled and numbered cause, ~~the plaintiff~~ that he/she be granted community supervision in said cause, pursuant to Article 42.12 of the Texas Code of Criminal Procedure, would show the Court that he/she has not previously been convicted of a felony in this or any other state, except for _____.

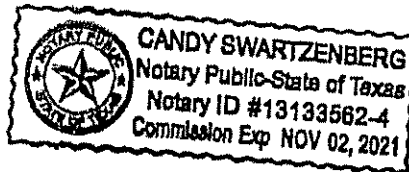
BEFORE ME, the undersigned authority, on this day personally appeared the defendant in the above-styled and numbered cause, who being by me duly sworn, deposes and says on his/her oath that every statement in the foregoing is true and correct

X [Signature]

Defendant's signature

20 10 SUBSCRIBED AND SWORN to before me this 28 day of November

[Signature]
Notary Public, State of Texas



FILED
AT 10:20 CLOCK AM

NOV 28 2018

Gonzales
COUNTY CLERK
BRAZORIA COUNTY TEXAS

STATE'S EXHIBIT #1
CAUSE NO 231991
DEFENDANT Juan Rodriguez

contact Detective Weaver or the Pearland Police and return the I-Pad, the charges will be dropped Detective Weaver's direct line is 281-997-4154, and his email is weaver@pearlandtx.gov . Approximately 1 5 hours later, the suspect replied "can you please remove the I-Pad from your iCloud com I don't want your personal information to be linked to it When I sale it "

Ms Melgares provided Officer Guajardo a written statement to these facts and screenshots of the text messages she received from the suspect On 04/05/2018, I was assigned this case for investigation I began my investigation by researching the phone number the suspect had sent Ms Melgares text messages from (832-862-1596) I found this number to be owned by a company called Bandwith com (voice over internet service) After discovering this, I contacted Bandwith com and learned from them that the target number had been contracted by them to a company called Pinger Inc Upon discovering this, I requested a grand jury subpoena for Pinger Inc to release records related to this number On 04/16/2018, I received the requested records from Pinger Inc According to Pinger Inc , they had no information regarding the subscriber's name, but were able to provide me with the I P address (73 166 189 133) used to create the account

I researched this I P address and found it to be owned by Comcast Upon learning this, I completed a grand jury subpoena request for Comcast to release subscriber records related to the I P address On 04/23/2018, I received the requested records from Comcast According to Comcast records, the internet subscriber was Juan Rodriguez, 12318 Bend Creek Ln , Pearland, Texas The account showed to be active and listed his phone number as 513-720-4795 I found this address to be in close proximity to the route Ms Melgares had driven home

On 04/25/2018, at approximately 9 30AM, Detective Simons and I drove to 12318 Bend Creek Ln Upon arriving, we observed a Hispanic male in the front yard mowing grass The male identified himself as the homeowner and later showed me a Texas driver's license that identified him as Juan Rodriguez W/M DOB 09/14/1977 I interviewed Mr Rodriguez who admitted to finding Ms Melgares's I-Pad Mr Rodriguez stated that he found it while riding his bicycle near his home Mr Rodriguez also admitted to texting Ms Melgares and telling her that he would be listing the device for sale on Ebay unless she paid \$200 00 for its return I then asked Mr Rodriguez if he still had the I-Pad in his possession Mr Rodriguez stated that he did not and there would be no way of recovering it I then asked Mr Rodriguez if he had sold it on Ebay Mr Rodriguez refused to answer the question I then told Mr Rodriguez that I would be contacting the district attorney regarding a theft charge At that time, Mr Rodriguez's demeanor changed and he said he would be willing to reimburse Ms Melgares for the device The interview was video recorded and was retained for evidence

On 04/26/2018, I followed up with Ms Melgares who told me that she wished to pursue charges on Mr Rodriguez for theft I then contacted the Brazoria County D A 's Office and relayed the facts of the case to First Assistant D A M Aldous who agreed to accept the charge of theft Based on the evidence and facts of the case, Mr Rodriguez should be charged with class B theft as the value of the I-Pad was \$699 00

Against the peace and dignity of the State



Signatures of Affiant

SUSPECT INFORMATION

Name Juan Rodriguez
Address 12318 Bend Creek Ln Pearland Texas 77584
Race W
Sex M
DOB 09/14/1977
DL/ID# 24247553
TRN

CF 021317



APR 30 2018
GORDON STARKENBURG
Justice of the Peace 3-2

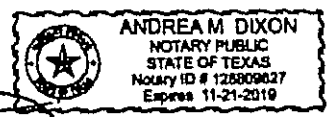
FILED
AT 10:50 O'CLOCK A.M.

NOV 28 2018

Andrea M. Dixon
COUNTY CLERK
BRAZORIA COUNTY TEXAS

Sworn to and subscribed before me by S. WEAVER, a credible person,
this 30 day of APRIL, A.D. 2018

Andrea M. Dixon
Notary Public, State of Texas



My commission expires 11-21-2019

Magistrate's Approval _____
Justice of the Peace Precinct _____ Place _____

Filed this _____ day of _____, A.D. APR 30 2018



GORDON STARKENBURG
Justice of the Peace 3-2

File # F021311

Approved by Brazoria County First Assistant District Attorney M. Aldous

Brazoria County, Texas

Bond \$ 2000

NO 234991

THE STATE OF TEXAS

VS

Juan Rodriguez

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§

IN THE COUNTY COURT
AT LAW # 1
BRAZORIA COUNTY, TEXAS

DEFENDANT'S ADMONITIONS AND WAIVERS OF CONSTITUTIONAL RIGHTS

Juan Rodriguez, have been advised of the following Constitutional rights on this the 29 day of November, 2018

- 1 I have the right to a trial by jury I may waive this right and be tried by a judge
- 2 I have the right to remain silent and not make any statement at all, however, any statement I make may be used as evidence against me in court
- 3 I have the right to have a lawyer present to advise me prior to and during any questioning, and in court If I am financially unable to employ a lawyer, I have the right to have a lawyer appointed by the court
- 4 I have the right to a pre-sentence investigation and report
- 5 I have the right to appeal If the punishment assessed by the court does not exceed the punishment agreed to in the plea bargain and recommended by the prosecuting attorney, then I will be allowed to appeal only with the court's permission, except for matters raised in written motions filed prior to trial If the punishment assessed by the court exceeds the punishment agreed to in the plea bargain and recommended by the prosecuting attorney, then I will be allowed to appeal even without the court's permission
- 6 The judge is not bound by the recommendation of the prosecuting attorney as to punishment However, if the judge does not intend to follow the plea bargain I have reached with the prosecuting attorney, I will be allowed to withdraw my plea of "guilty" or "nolo contendere"
- 7 I also have had explained to me and understand the full penalty range for the offense of which I am charged, and have initialed the appropriate punishment range on the back of this form
- 8 If I am granted deferred adjudication community supervision, and then violate a condition of community supervision imposed by the court, I may be arrested and detained as provided by law I would then be entitled to a hearing limited to a determination by the court of whether it will proceed with an adjudication of guilt on the original charge After an adjudication of guilt, all proceedings, including assessment of punishment, pronouncement of sentence, granting of community supervision, and appeal continue as if the adjudication of guilt had not been deferred After an adjudication of guilt, the punishment assessed may be any term within the penalty range for the offense(s) and is not limited to the term of community supervision For offense date prior to 9/1/2015 If I successfully complete the deferred adjudication probation, I may have the right to petition the Court for an order of nondisclosure under Section 411 081, Government Code, unless I am ineligible to pursue that right because of the nature of the offense for which I am placed on deferred adjudication community supervision, or my criminal history For offense date on or after 9/1/2015 I have the right to receive or petition the court for an order of nondisclosure of criminal history record information under Subchapter E-1, Chapter 411, Government Code, as applicable, unless I am ineligible for an order because of the nature of the offense for which I was placed on deferred adjudication community supervision, or my criminal history
- 9 If I am placed on community supervision, after satisfactorily fulfilling the conditions of community supervision and on expiration of the period of community supervision, the court is authorized to release me from the penalties and disabilities resulting from the offense as provided by Article 42A 701(f), Code of Criminal Procedure This does not apply to a defendant convicted of an offense under Sections 49 04-49 08, Penal Code, an offense the conviction of which requires registration as a sex offender under Chapter 62, Code of Criminal Procedure, or a felony described by Article 42A 054, Code of Criminal Procedure
- 10 If I am not a citizen to the United States of America, a plea of "guilty" or "nolo contendere" to the offense charged may result in deportation, expulsion from admission to this country, or denial of naturalization in accordance with Federal law
- 11 No one from the District Attorney's Office has forced me to speak to them No one from the District Attorney's Office has initiated or encouraged me in any way to waive any of the rights enumerated herein nor has any member of the District Attorney's Office approached me prior to receiving my admonishments from the Judge/Court At my initial hearing I was offered the opportunity to reset my case and consult with an attorney
- 12 If I have been charged with a misdemeanor punishable by jail time, I am aware I have 10 days to prepare for a dispositive hearing, or I may waive it
- 13 If you are convicted of a misdemeanor offense involving violence where you are or were a spouse, intimate partner, parent, or guardian of the victim or are or were involved in another, similar relationship with the victim, it may be unlawful for you to possess or purchase a firearm, including a handgun or long gun, or ammunition, pursuant to federal law under 18 U S C Section 922(g)(9) or Section 46 04(b), Texas Penal Code If you have any questions whether these laws make it illegal for you to possess or purchase a firearm, you should consult an attorney

Knowing the above rights I hereby freely and voluntarily enter the following plea and waive these rights

Guilty Nolo contendere/No contest I understand the Judge may still find me guilty based upon this plea
 Not Guilty True Not True

AT 102206 LOCK AM
NOV 28 2018

I acknowledge that if I am not a citizen of the United States, either my attorney or the Court has advised me of the immigration consequences of my guilty/nolo contendere plea Furthermore, regardless of the consequences of the application of immigration law, I am knowingly, intelligently, and voluntarily pleading guilty/nolo contendere/true even if my plea/disposition of this case results in my deportation, expulsion from admission to this country and/or denial of naturalization

Defendant's initials XRV Defense Attorney's initials XCAP

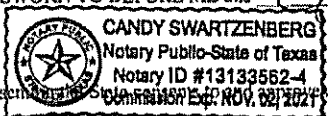
I acknowledge that if I am a pro se defendant, meaning that I am representing myself, the prosecution has offered me an opportunity to view and inspect the State's file and its contents in this case, including offense material and statements Defendant's initials _____

I understand these rights and admonitions I am aware of the consequences of a plea of "guilty" or "nolo contendere" I am not currently suffering from any mental or physical condition, nor am I under the influence of any substance, that impairs my judgment or understanding I voluntarily, knowingly, and intelligently waive my rights to a trial by jury, to remain silent, to an attorney (if applicable), to a pre-sentence investigation and report, and to appeal

[Signature]
ATTORNEY FOR DEFENDANT

X [Signature]
DEFENDANT

SUBSCRIBED AND SWORN TO BEFORE ME this 29 day of November, 2018



[Signature]
NOTARY PUBLIC, STATE OF TEXAS

The undersigned attorney represents the Defendant's waiver of trial by jury

[Signature]
ASSISTANT CRIMINAL DISTRICT ATTORNEY

The above waiver of rights having been made by the Defendant in person, in writing, and in open court, and approved by the Attorney representing the State, prior to the entering of a plea herein, is approved by the Court and is ordered filed in the papers of this Cause The Court's consent and approval of these waivers shall be entered of record on the docket of the Court

[Signature]
JUDGE PRESIDING

MISDEMEANOR PENALTY RANGES

CLASS A	CLASS B	CLASS C
Fine not to exceed \$4000 00, Jail not to exceed 1 year, or both Fine and Jail (PC 12 21)	Fine not to exceed \$2000 00, Jail not to exceed 180 days, or both Fine and Jail (PC 12 22)	Fine not to exceed \$500 00 (PC 12 23) Speeding-Fine \$1-\$200 (TRC 542 401)
Class A enhanced by prior Class A or Felony conviction - Fine not to exceed \$4000 00, Jail not less than 90 days nor more than 1 year, or both Fine and Jail (PC 12 43)		
Class B enhanced by prior Class B, Class A, or Felony conviction - Fine not to exceed \$2000 00, Jail not less than 30 days nor more than 180 days, or both Jail and Fine (PC 12 43)		

Under Federal law, it is unlawful for a person convicted of a misdemeanor involving family violence, as defined by Section 71 004
Family Code, to possess or transfer a firearm or ammunition

DWI, FWI, BWI - 1 ST CONVICTION	DWI, FWI, BWI - 2 ND CONVICTION
Same as Class B but minimum 72 hours Jail	Same as Class A but minimum 30 days Jail 3 days Jail required as term of probation if prior more than 5 years 5 days Jail required as term of probation if prior less than 5 years
With Open Container - Same as Class B but min 6 days Jail	Automatic DL suspension 180 days-2 years (TRC 521 344)
Age ≥ 21 years not probated Automatic DL suspension 90 days- 1 year (TRC 521 344)	1-2 years DL suspension if offense committed within 5 years of previous offense & waiting period of 1 year (TRC 521 251, PC 49 09)
Age ≥ 21 years probated & DWI education/Victim Impact Panel required as C O P no DL suspension (TRC 521 344)	Interlock required as term of probation (TRC 521 246, CCP 42A 408)
Age < 21 years & not probated-automatic suspension 1 year (TRC 521 342 & TRC 521 344)	
Age < 21 years & probated-automatic suspension 90 days if interlock C O P , otherwise, 1 year (TRC 521 342 & CCP 42A 407)	

DWI BAC ≥ 15
Same as Class A but minimum 72 hours Jail, With open container minimum 6 days jail
Interlock required as term of probation (CCP 42A 408)
Age ≥ 21 years not probated Automatic DL suspension 90 days- 1 year (TRC 521 344)
Age ≥ 21 years probated & DWI education/Victim Impact Panel required as C O P no DL suspension (TRC 521 344)
Age < 21 years & not probated-automatic suspension 1 year (TRC 521 342 & TRC 521 344)
Age < 21 years & probated-automatic suspension 90 days if interlock C O P , otherwise, 1 year (TRC 521 342 & CCP 42A 407)

DWLI WITH PREVIOUS CONVICTION/SUSPENSION/WITHOUT FINANCIAL RESPONSIBILITY (TRC 521 457)	
Same as Class B	Same as Class A - if causes accident involving S B I or death
Automatic DL Suspension - 90 days plus the lesser of the term of the original suspension or 1 year, as determined by D P S	

RECKLESS DRIVING (TRC 545 401)	FAILURE TO MAINTAIN FINANCIAL RESPONSIBILITY (TRC 601 195)
Fine not to exceed \$200 00, Jail not to exceed 30 days, or both Fine and Jail	Fine not to exceed \$500 00, Jail not to exceed 6 months, or both Fine and Jail

SALE OF ALCOHOL TO A MINOR (ABC 106 03)	FURNISH ALCOHOL TO A MINOR (ABC 106 06)
Same as Class A DL suspension 1 st offense 30 days, 2 nd offense 60 days, 3 rd offense 180 days (ABC 105 071)	Same as Class A DL suspension 1 st offense 30 days, 2 nd offense 60 days, 3 rd offense 180 days (ABC 106 071)
POSSESSION OF ALCOHOL, CONSUMPTION, OR ATTEMPT TO PURCHASE ALCOHOL BY MINOR (ABC 106)	
First or Second Conviction - Class C DL suspension 1 st offense 30 days, 2 nd offense 60 days, 3 rd offense 180 days (ABC 106 071)	Third Conviction - Fine not less than \$250 00 nor more than \$2000 00, Jail not to exceed 180 days, or both Fine and Jail DL suspension 1 st offense 30 days, 2 nd offense 60 days, 3 rd offense 180 days (ABC 106 071)
GENERAL TABC VIOLATION (TABC 1 05)	
\$100-\$1000 fine and/or up to 1 year county jail	

MANDATORY DRIVER'S LICENSE SUSPENSION
The Department of Public Safety may automatically suspend driver's licenses in these cases
Marihuana or Controlled Substances Act violation 180 days (TRC 521 372 & 521 374)
Dangerous Drug Manufacture, Delivery, Possession, or Transport- Age < 21 years 1 year (TRC 521 342- 343)
Possession or Display of Fictitious DL, Multiple DL, Lending DL 90 days-1year (TRC 521 346, 521 451, 521 453)
Possession or Display of Fictitious Inspection Certificate, Registration, or License Plate 180 days (TRC 521 3465)
Criminal Mischief 1 year Graffiti (PC 28 08) (Court's Discretion)
Racing 1 year + 10 hrs Com Service (TRC 521 350)
Theft of Motor Fuel 180 days or 1 year (TRC 521 349, finding req'd under CCP 42 019)
DUI one year (TRC 521 343)
Fleeing Peace Officer 90 days (TRC 521 292 & 545 421)
Habitual violator of license regulations (4+ conv in 12 months or 7+ in 24 months) 90 days-1 year (TRC 521 292 & 293)
Tampering with Government Record (P C 37 10) 1 year (TRC 521 349, finding req'd under CCP 42 019)

AFFIDAVIT

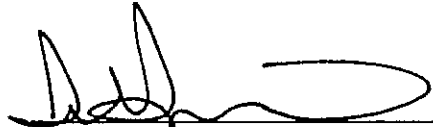
THE STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

BEFORE ME, the undersigned authority, on this day personally appeared Amanda M. Kates, Petitioner's attorney of record, who, being by me duly sworn, deposed as follows:

"My name is Amanda M. Kates. I am over the age of 18 years, of sound mind, capable of making this affidavit, and state the following:

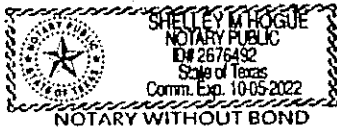
Based upon information and belief, Juan R. Rodriguez, whose Texas Bar Card Number is 24055914, is licensed as an attorney and counselor at law in the State of Texas. Based upon information and belief, Juan R. Rodriguez, named as Respondent in the Petition for Compulsory Discipline filed with the Board of Disciplinary Appeals is one and the same person as the Juan Rodriguez who is the subject of the order entered in Cause No. 234991, styled *The State of Texas v. Juan Rodriguez*, in the County Court at Law No. 1 of Brazoria County, Texas, wherein Respondent pled guilty to Theft of Property > = \$100 < \$750, and was placed on Community Supervision for a term of twelve (12) months and further ordered to pay restitution in the amount of \$682.23 and a fine of \$400.00."

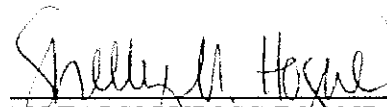
FURTHER Affiant saith not.



Amanda M. Kates

SWORN AND SUBSCRIBED before me on the 19 day of February 2019.





NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

