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

IN THE MATTER OF	§	
HON. SUZANNE H. WOOTEN	§	**CAUSE NO.: 50489**
STATE BAR CARD NO.: 00794881	§	

MOTION TO VACATE AND SET ASIDE ORDER OF SUSPENSION

TO THE HONORABLE BOARD OF DISCIPLINARY APPEALS:

Now comes Judge Suzanne H. Wooten, Respondent, through her counsel, and files this Motion to Vacate and Set Aside Order of Suspension, and shows the following:

1. In November, 2011, Respondent was convicted of 9 felony offenses in Collin County, Texas under Cause No. 366-86139-2011. The Respondent was sentenced to 10 years' probation and a $10,000.00 fine. The State Bar of Texas, through its Chief Disciplinary Counsel, filed a Compulsory Discipline Petition with this Board to Disbar Respondent from the practice of law due to those convictions.
2. In October, 2012, this Board, after a lengthy contested hearing, voted to suspend Respondent from the practice of law instead of entering an Order of Disbarment. The Order of Suspension from the practice of law was from October 24, 2012 – December 12, 2021.
3. On December 14, 2016, the Texas Court of Criminal Appeals unanimously acquitted two co-defendants in the Respondent's criminal case, ruling that the charges in these cases were not crimes under Texas law. *See, Stacy Stine Cary v. State,* 507 S.W.3d 750 (Tex. Crim. App. 2016), *David Cary v. State*, 507 S.W.3d 761 (Tex. Crim. App. 2016). The charges against those co-defendants were substantially identical to the charges brought against the Respondent.

4. On March 9, 2017, undersigned counsel filed an "11.072 Writ of Habeas Corpus Declaring Actual Innocence as a Matter of Law." On May 10, 2017, an "Amended 11.072 Writ of Habeas Corpus Declaring Actual Innocence as a Matter of Law" was filed in the criminal cause number (366-81639-2011). A file-stamped copy of this Amended Application is attached to this Motion as Exhibit "A" and fully incorporated herein by reference.

5. The State of Texas, represented by the Texas Attorney General's Office, filed its Answer/Response to the Writ Application on May 19, 2017. In that pleading, the State *agreed* that the relief requested should be granted stating, "In sum, and for the reasons outlined below, the State agrees that relief is appropriate here... Stated differently, the State agrees that the Applicant's judgment of conviction and sentence in Cause Number 366-81639-2011 should be '**vacated, and a judgment of acquittal rendered[,]' as to all 9 counts**. (emphasis added). A copy of the State's Answer is attached to this Motion as Exhibit "B" and fully incorporated herein by reference.

6. On May 24, 2017, Judge Andrea Thompson, Judge of the 416th Judicial District Court of Collin County, Texas, signed an Order On Applicant's First Amended 11.072 Writ of Habeas Corpus Declaring Actual Innocence as a Matter of Law, setting aside the convictions in Cause Number 366-81639-2011 and acquitting the Respondent of all charges in the indictment. A copy of the signed Order is attached to this Motion as Exhibit "C" and fully incorporated by reference. The Order is final and not appealable, as the State of Texas has agreed to the findings and the entry of the Order.

7. As part of the Order setting aside the convictions and acquitting the Respondent, Judge Thompson also "**FURTHER ORDERED that any legal disabilities rendered**

against Applicant as a result of the convictions in this Cause are VOID and ORDERED SET ASIDE and the Applicant be immediately provided all release and relief from those legal disabilities."

8. Respondent's suspension from the practice of law is a legal disability that was a direct result from the now vacated underlying criminal convictions. A state District Judge has now ordered that the Order of Suspension be set aside due to the Applicant being acquitted.
9. Rule 8.07 of the Texas Rules of Disciplinary Procedure is **not** applicable here, as the effect of the proceedings and Orders discussed above have resulted in the full exoneration of the Respondent of the convictions that led to the State Bar Compulsory Discipline proceedings. The effect of the Respondent's acquittal rendered her criminal probation term immediately terminated and the Respondent now does not have any criminal history. Therefore, the basis for the Order of Suspension in this Cause no longer exists.
10. Based upon the foregoing, the Order of Suspension against the Respondent should be immediately SET ASIDE and VACATED, and any reference to the suspension order should be removed from the records of the State Bar, including the Respondent's profile in the electronic records of the Bar.

WHEREFORE, PREMISES CONSIDERED, Respondent prays that the Board enter its order vacating and setting aside the Order of Suspension in this Cause and ordering the records be removed from the Respondent's records, including electronic records, held by the State Bar of Texas.

Respectfully submitted,

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By:_____
PETER A. SCHULTE
State Bar No. 24044677
Attorney for Respondent, Hon. Suzanne H. Wooten

CERTIFICATE OF SERVICE

This is to certify that on June 2, 2017, a true and correct copy of the above and foregoing document was served on the following:

Dean Schaffer, Esq.
Office of the Chief Disciplinary Counsel
PO Box 12487
Austin, TX 78711
Via Email to Dean.Schaffer@texasbar.com

_____
PETER A. SCHULTE

Filed: 5/10/2017 3:21:20 PM
Lynne Finley
District Clerk
Collin County, Texas
By Renee Sims Deputy
Envelope ID: 16954570

NO. 366-81639-2011_____

HON. SUZANNE H. WOOTEN	§	**IN THE DISTRICT COURT**
	§	
V.	§	**366TH JUDICIAL DISTRICT**
	§	
STATE OF TEXAS	§	**COLLIN COUNTY, TEXAS**

FIRST AMENDED APPLICATION FOR 11.072 WRIT OF HABEAS CORPUS DECLARING ACTUAL INNOCENCE AS A MATTER OF LAW

366th Judicial District Court
Collin County, Texas
The Honorable Andrea Thompson, Judge Presiding

Submitted by:

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Exhibit "A"

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I. IDENTITY OF PARTIES AND COUNSEL

Hon. Suzanne H. Wooten Former District Judge, 380th Judicial District Court McKinney, Collin County, Texas	**APPLICANT**
Peter A. Schulte Schulte & Apgar, PLLC 4131 N Central Expy Ste 680 Dallas, TX 75204-2171 Office: (214) 521-2200	Attorney for Applicant During Trial and for Writ of Habeas Corpus
Toby L. Shook Shook & Gunter 2001 Bryan St Ste 1905 Dallas, Texas 75201 Office: 214-850-9229	Attorney for Applicant During Trial
STATE OF TEXAS	**RESPONDENT**
Gregg Abbott Texas Attorney General (at time of trial) 300 W 15th Street Austin, Texas 78701 Phone: (512) 463-2100 Fax: (512) 475-2994	Attorney for State of Texas At Trial (then *Pro Tem*)
Harry E. White Tarrant County District Attorney's Office (Formerly Texas AG Office at Time of Trial) 401 W Belknap Fort Worth, Texas 76196 Phone: (817) 884-1661 Fax: (817) 884-3333	Attorney for State of Texas At Trial (then *Pro Tem*)
Adrienne McFarland[1] Texas Attorney General's Office 300 W 15th Street Austin, Texas 78701 Phone: (512) 463-2170 Fax: (512) 475-2994	Attorney for State of Texas At Trial (then *Pro Tem*) & Post Conviction

[1] Upon filing the Original Application, a question was raised regarding who represents the State of Texas in this post-conviction Writ of Habeas Corpus. On May 8, 2017, after a previous hearing on the record and communications with the Collin County District Attorney's Office and the Texas Attorney General's Office, Applicant filed a Notice with the Court that, at that time, she did not object to the Texas Attorney General's Office representing the State in this matter.

Catherine Chopin[2] (Formerly Texas AG Office at Time of Trial) Royston Rayzor 802 North Carancahua Ste 1300 Corpus Christi, Texas 78401 Phone: (361) 884-8808 Fax: (361) 884-7261	Attorney for State of Texas At Trial (then *Pro Tem*)
Joseph Corcoran Texas Attorney General's Office 300 W 15th Street Austin, Texas 78701 Phone: (512) 463-2170 Fax: (512) 475-2994	Attorney for State of Texas Post-Conviction
Judge Kerry L. Russell 7th Judicial District Court Smith County, Texas 100 N Broadway Rm 203 Tyler, Texas 75072 Office: (903) 590-1640 Fax: (903) 590-1641	Presiding (Visiting) Judge At Trial
Judge Andrea Thompson[3] 416th Judicial District Court Collin County, Texas 2100 Bloomdale Rd Ste 30146 McKinney, Texas 75071 Office: (972) 548-4570	Current Presiding Judge over Writ Application

[2] On February 11, 2015, Ms. Chopin filed a Letter with the Court identifying herself as the lead counsel on this matter on behalf of the Texas Attorney General's Office. However, Ms. Chopin is no longer employed as an Assistant Attorney General and therefore, she is no longer the attorney assigned to this matter.

[3] On April 20, 2017, Justice Mary Murphy, Presiding Judge of the First Administrative Judicial Region, appointed the Honorable Judge Andrea Thompson, active Judge of the 416th Judicial District Court of Collin County, Texas to preside over this case and the post-conviction Writ of Habeas Corpus.

II. TABLE OF AUTHORITIES

Cases

Statutes

TO THE HONORABLE JUDGE THOMPSON:

HON. SUZANNE H. WOOTEN, Applicant, petitions the Court for relief related to her convictions for six counts of Bribery, one count of Conspiracy to Commit Engaging in Organized Criminal Activity, one count of Money Laundering, and one count of Tampering with a Governmental Record under cause number 366-81639-2011 before the 366th Judicial District Court, Collin County, Texas, and respectfully submits this Application for Writ of Habeas Corpus for Declaration of Actual Innocence as a Matter of Law.

III. STATEMENT OF THE CASE

Applicant was charged by indictment on July 14, 2011[4] for six counts of Bribery, one count of Engaging in Organized Criminal Activity, one count of Money Laundering, and one count of Tampering with a Governmental Record. More specifically, that between the period of January 4, 2008 – March 14, 2008, in Collin County, Texas, Applicant received $150,000.00 toward her campaign for District Judge as alleged in the Indictment:

"On [over six dates between January 4, 2008 – March 14, 2008] [Applicant] did then and there intentionally and knowingly solicit, accept, and agree to accept a benefit from another, namely Stacy Stine Cary, ***other than a political contribution as defined by Title 15, Election Code, or an expenditure made and reported in accordance with Chapter 305 of the Government Code***, to-wit: [total of $150,000] and the [Applicant] was a public servant, to-wit: a candidate for the office of Judge of the 380th Judicial District Court and presiding Judge of the 380th Judicial District Court, as consideration for [Applicant's] decision, opinion, recommendation, vote, or other exercise of discretion as a public servant, and as consideration for [Applicant's] decision, vote, recommendation, and other exercise of official discretion in a judicial proceeding, to wit: filing paperwork to run for Judge, proceeding and continuing with a campaign to unseat the incumbent elected Judge of the 380th Judicial District Court, and as Judge of the 380th Judicial District Court presiding over and issuing favorable rulings in cases in which David Cary and Stacy Stine Cary are parties; (emphasis added)"

See, Indictment[5] (2011).

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[4] Applicant was originally indicted on October 14, 2010, for one count of Engaging in Organized Criminal Activity, six counts of Bribery, and one count of Money Laundering in Collin County Cause Number 366-82214-10. The Applicant was "re-indicted" on July 14, 2011, in Cause Number 366-82639-2011 alleging the original Bribery counts and adding one count of Tampering with a Governmental Record. The original cause, 366-82214-10 was dismissed on or about July 29, 2011.

[5] The Applicant's Indictment is attached hereto as Exhibit "A."

All of the allegations contained in the indictment were in regard to the Applicant's campaign to be elected the Republican Nominee for the 380th Judicial District Court in the March 4, 2008 Republican Primary. Applicant won the primary election by a wide margin, defeating the incumbent Judge handily. There were no other candidates in the general election held on November 4, 2008, and Applicant was sworn in as the Judge of the 380th Judicial District Court on January 1, 2009.

A jury trial was held in this case on November 7, 2011 through November 28, 2011. After the guilt/innocence portion of the trial, the jury found Applicant guilty of Conspiracy to Commit Engaging In Organized Criminal Activity (lesser included offense), six counts of Bribery, one count of Money Laundering, and one count of Tampering with a Governmental Record.

After Applicant was found guilty, as the parties were preparing to start the punishment phase of the trial, the State of Texas offered Applicant 10 years' community supervision in exchange for her immediate resignation of her judicial office and for her to waive her right to direct appeal. Under the circumstances, Applicant had no other option but to accept the State's offer and she was placed on 10 years' community supervision on each count (except the last count, which Applicant was placed on five years community supervision due to statutory limitations) and resigned her judicial office. Applicant **did not** change her plea of "not guilty" and Applicant **did not** waive her right to habeas corpus relief as part of the agreement with the State.

Applicant is entitled to petition the Court for the relief requested as she was placed on community supervision and is hereby challenging the legal validity of the conviction for which community supervision was imposed as there was "no evidence upon which to base the conviction, as no one can be convicted of something that is not a crime." *See, Ex Parte Perales*, 215 S.W.3d

418, 419 (Tex. Crim. App. 2007). This is the first 11.072 Writ of Habeas Corpus filed in this matter by the Applicant. *See,* TEX. CODE CRIM. PROC. Art. 11.072 (Vernon 2017).

IV. FACTS

A brief summary of the facts is as follows:

The foundation of the State's allegations in this case were "Bribery" charges claiming co-defendants Stacy Stine Cary and David Frederick Cary funneled money to the Applicant's campaign through an intermediary in exchange for "favorable rulings" in a case assigned to the Court where Applicant was a candidate for political office. As of the date of this application, Applicant has still never met the Carys and Applicant never accepted any money from the Carys, directly or indirectly. The State alleged that Applicant received money from the Carys through an intermediary, co-defendant James Stephen Spencer, who was employed by Applicant as her media consultant for her political campaign.

The State went to great lengths to assert that any funds paid by the Carys to Spencer were "not a political contribution as defined by Title 15, Election Code." In several pre-trial filings, Applicant made the argument that the State could not charge the Applicant as asserted, as the allegations were all about funds allegedly used in a campaign. TEX. PENAL CODE §36.02 (Bribery), in relevant parts, is as follows:

> (a) A person commits an offense if he intentionally or knowingly offers, confers, or agrees to confer on another, or solicits, accepts, or agrees to accept from another:
>
> > (1) any benefit as consideration for the recipient's decision, opinion, recommendation, vote, or other exercise of discretion as a public servant, party official, or voter;
> >
> > (2) any benefit as consideration for the recipient's decision, vote, recommendation, or other exercise of official discretion in a judicial or administrative proceeding;

> (3) any benefit as consideration for a violation of a duty imposed by law on a public servant or party official; or
>
> (4) any benefit that is a political contribution as defined by Title 15, Election Code, or that is an expenditure made and reported in accordance with Chapter 305, Government Code, if the benefit was offered, conferred, solicited, accepted, or agreed to pursuant to an express agreement to take or withhold a specific exercise of official discretion if such exercise of official discretion would not have been taken or withheld but for the benefit; notwithstanding any rule of evidence or jury instruction allowing factual inferences in the absence of certain evidence, **direct evidence of the express agreement shall be required in any prosecution under this subdivision** (emphasis added).
>
> (b) It is no defense to prosecution under this section that a person whom the actor sought to influence was not qualified to act in the desired way whether because he had not yet assumed office or he lacked jurisdiction or for any other reason.
>
> * * *
>
> (d) It is an **exception to the application of Subdivisions (1), (2), and (3)** of Subsection (a) that the benefit is a political contribution as defined by Title 15, Election Code, or an expenditure made and reported in accordance with Chapter 305, Government Code.
>
> (e) An offense under this section is a felony of the second degree.
>
> *Id.*

Applicant stated in a Motion to Quash and Exception to Substance of Indictment filed on January 25, 2011, in the original cause number (366-82214-10) that included the same foundation allegations of bribery as in the "re-indictment," that the Bribery statute excepted a Defendant to being charged under subsection (a)(1), (a)(2), or (a)(3) if the allegations of bribery included "political contributions." On page 2 of that Motion, the Motion stated, in part:

"The indictment vaguely resembles Texas Penal Code Section 36.02(a)(2) in which it attempts to allege that the Defendant received funds 'which was not a political contribution as defined by Title 15 of the Election Code or Expenditures made in accordance with Chapter 305 Government Code.' However, in open Court on November 19, 2010, Mr. Brian Chandler, one of the Prosecuting Attorneys, stated that this case was about 'direct expenditures to the Defendant's

2008 Judicial Campaign by a third party.' Such alleged 'expenditures' would be defined under Title 15 of the Election Code. Therefore, the Indictment is defective in that the State attempts to lessen their evidentiary burden by avoiding the showing of any proof of any '**direct evidence of an express agreement**' between the parties pursuant to Tex. Penal Code §36.02(a)(4) (Vernon 2010)."

See, Motion to Quash and Exception to Substance of Indictment, filed January 25, 2011, In Cause Number 366-82214-10, attached hereto as Exhibit "B"

In a hearing on this Motion to Quash on March 11, 2011, Presiding (Visiting) Judge Kerry Russell denied the Motion and stated in part that the "State can charge anyone under any section they want" and ignored the Legislature's intent of preventing this type of indictment against candidates and elected officials by refusing to quash the indictment, which would have thereby ended the prosecution of Applicant.

At the conclusion of the State's case in chief, Applicant made a motion for an Instructed Verdict on all counts as the State had not shown any evidence, specifically, "direct evidence of an express agreement" among the parties where in exchange for political contributions, the Applicant was going to "take or withhold a specific exercise of official discretion if such exercise of official discretion would not have been taken or withheld but for the political contributions (benefit)," and that the State had failed to negate the political-contribution exception afforded in the bribery statute. Presiding (Visiting) Judge Kerry Russell denied the Applicant's request for an Instructed Verdict on all counts.

The other three counts contained in the Indictment were predicated upon the Bribery counts and once the Bribery counts are deemed unlawful and illegal, the other three counts predicated thereon fail entirely as well.[6] The State of Texas, in its own briefs on the merits in the direct

[6]The reason that these counts fail as well is shown in more detail at the end of the analysis of Supplemental Legal Challenge Number Three.

appeals of the co-defendants (discussed *infra*,) stated that if the bribery counts convictions are reversed, then the remaining charges should be reversed as well based on the evidence being legally insufficient. *See, David Cary v. State*, PD-0445-15, 11 (Tex. Crim. App. 2016).

V. RELEVANT MATTERS & LEGAL PRECEDENT FROM TRIALS/APPEALS OF CO-DEFENDANTS

This case involved three other co-defendants. Two of the co-defendants were a married couple named David Frederick Cary and Stacy Stine Cary (Collectively "the Carys"). The third co-defendant was James Stephen Spencer, a consultant who assisted the Carys with other matters and was employed by the Applicant as her media consultant during her judicial campaign. Each of the indictments for the Carys and Applicant are substantially identical as the allegations track the same statutory language and same alleged scheme of conduct. The indictments for David Cary and Stacy Cary are attached hereto as Exhibits "C" and "D," respectively.

The Applicant's trial was held first. Spencer's trial was held second. Stacy's trial was held third and David's trial was held last. Applicant, Stacy Cary, and David Cary were convicted by a jury, David Cary received 14 years confinement, serving 19 months of such sentence before his release, and the other two (including Spencer) were placed on probation.[7]

The Carys were able to directly appeal their cases. Stacy's case was appealed first. The Dallas 5th District Court of Appeals affirmed Stacy's conviction. *See, Stacy Cary v. State*, 05-12-01421-CR, 2014 WL 4261233 (Tex.App. – Dallas 2015). However, in his dissenting opinion, Justice Kerry P. Fitzgerald offered a scathing dissent, stating that "with respect to the bribery charges at the heart of this case, this case is most unusual because the State's evidence is not merely insufficient – **if affirmatively negates an essential element of the bribery charges and *proves***

[7] Spencer opted to take a plea deal for probation on this case prior to trial.

appellant not guilty." *Id.* at page 1, Dissenting Opinion (Tex.App. – Dallas 2014) (attached hereto as Exhibit "E").[8] Further, Justice Fitzgerald confirmed that all the other counts of the indictment would fail in their entirety as a result.

Several months later, a unanimous panel of the Dallas 5th District Court of Appeals reversed the convictions of David Cary and **rendered acquittals on all counts, finding that there "was insufficient evidence to support his convictions" on all counts** (emphasis added). *See, David Cary v. State*, 460 S.W.3d 731 (Tex.App. – Dallas 2015).

Both the State in the David Cary case and Stacy Cary filed a Petition for Discretionary Review (PDR) with the Court of Criminal Appeals. The Court of Criminal Appeals granted PDR on each case and heard the cases in tandem.

On December 14, 2016, the Court of Criminal Appeals handed down their **unanimous** opinions in **both** David and Stacy Cary's cases. In David's case, the Court of Criminal Appeals affirmed the 5th District Dallas Court of Appeals opinion and affirmed the acquittal on all counts. *See, David Cary v. State*, PD-0445-15 (Tex. Crim. App. 2016). In Stacy's case, the Court of Criminal Appeals **reversed** the opinion of the 5th District Dallas Court of Appeals and rendered acquittals on all counts as well. *See, Stacy Cary v. State*, PD-1341-14 (Tex. Crim. App. 2016). In both cases, the Court of Criminal Appeals stated that there was "insufficient evidence to support [all of their] convictions." *Id.* Both the legal arguments and issues contained in these two Court of Criminal Appeals opinions **are directly related, applicable, and are absolutely persuasive and precedential to the Applicant's case,** as stated previously, the indictments are substantially

[8] As will be shown later, the Texas Court of Criminal Appeals later agreed with Justice Fitzgerald in their Opinions.

identical. Copies of these two opinions are attached to this Writ Application as Exhibits "F" and "G" and fully incorporated by reference.

VI. *Ex parte Perales* & VIOLATION OF DUE PROCESS

The Texas Court of Criminal Appeals case *Ex Parte Perales* is exactly on point and precedential to this case. *See, Ex parte Perales*, 215 S.W.3d 418 (Tex. Crim. App. 2007). In *Perales*, the Applicant, Valerie Sue Perales, had been charged by indictment of delivery of a controlled substance, namely cocaine, "by actual transfer to her unborn child, a person who is younger than 18 years of age or younger." *Id.* at 418. Perales entered a plea of guilty, **waived her right to direct appeal** (emphasis added), and accepted a plea bargain offer of 7 years incarceration. *Id.* In her Writ of Habeas Corpus to seek relief of her conviction, the Applicant asserted that "1) there was no evidence or insufficient evidence to support the finding of actual delivery of a controlled substance to her unborn child; 2) invalid or defective indictment, as there was no evidence or insufficient evidence to legally indict her, and 3) illegal sentence because there was no evidence or insufficient evidence to support a finding of delivery of a controlled substance to a minor, thus 'the sentence is illegal since the conviction is unjustified.'" *Id.* at 418-419. The Applicant also asserted that the facts of the case do not support the charge and in "the discussion of her 'Point of Error,' she compares her case to two recent cases, each of which involved the conviction of a woman for delivery of drugs to her unborn child and **both of which were reversed and acquittals rendered by the Amarillo Court of Appeals.**" *Id.* (emphasis added).

In response to the Writ filed by *Perales*, the State of Texas objected to the Writ by arguing the Applicant had pleaded guilty to the offense and waived direct appeal, and that "a challenge to the sufficiency of the evidence is not cognizable by way of post-conviction habeas corpus." *Id.* "However, a claim of no evidence is cognizable because '[w]here there has been no evidence upon

which to base a conviction, a violation of due process has occurred and the conviction may be attacked collaterally in a habeas corpus proceeding.'" *Id.* If the record is devoid of evidentiary support for a conviction, an evidentiary challenge is cognizable on a writ of habeas corpus.

In recommending relief, the Habeas Court in *Perales* stated that the Applicant's "real complaint is that her sentence is illegal because it has been ***subsequently determined*** that a controlled substance that eventually entered into an unborn child's body via conveyance is not a 'delivery' for purposes of §481.122(a) of the Texas Health and Safety Code." *Id.* In other words, the indictment against ***Perales*** **for which she was convicted was <u>not</u> a crime**. *Id.* (emphasis added). The Court of Criminal Appeals concluded that since an "actual transfer delivery from a mother to her unborn child is not possible, we conclude, **as a matter of law**, delivery by actual transfer did not occur," and the Court vacated the judgment/conviction against *Perales* and rendered a judgment of acquittal. *Id. at 420.*

A. DISCUSSION

As shown *supra*, on December 14, 2016, the Court of Criminal Appeals subsequently determined that the allegations in this case are <u>not a crime</u> under Texas law. Accordingly, the Court of Criminal Appeals rendered an acquittal of Stacy Cary on all charges and confirmed the acquittal of David Cary on identical charges, the same alleged evidence, and the same argument by the State as those charged against Applicant. Although the Applicant did **not** enter a plea of guilty in the case, but entered into a punishment agreement that waived her right to a direct appeal in this case, she brings this Writ showing that the Court of Criminal Appeals has subsequently ruled that the evidence in this matter is insufficient to support a conviction.

The legal argument herein is similar to the argument for the defendant in Perales (who could not have committed the crime under the correct legal interpretation of the "delivery" statute),

as there was no evidence that that the payments to Spencer were **not** a political contribution. Moreover, the manner in which the Court of Criminal Appeals acquitted Stacy Cary of Engaging in Organized Criminal Activity is applicable to Applicant. See e.g., *Stacy Cary*, PD-1341-14 at 18. ("Because there is no evidence that Wooten received money from the Carys or Spencer that she was required to disclose on her 2008 Personal Financial Statement (PFS) (i.e., she received no money in her individual capacity), there is insufficient evidence to support Stacy's conviction for engaging in organized criminal activity.").

Therefore, this Application for Writ of Habeas Corpus, as supported by the rulings in the *Perales* case and the rulings of the Court of Criminal Appeals in both Cary cases, is the appropriate manner to seek habeas relief in this case and it should be granted as a matter of law and acquittals rendered on all of the charges/convictions of the Applicant.

VII. SUMMARY OF THE SUPPLEMENTAL LEGAL CHALLENGES

In addition to the clear precedent and argument for the granting of Applicant's Writ of Habeas Corpus Declaring Actual Innocence as a Matter of Law described *supra,* Applicant presents the following three supplemental Legal Challenges to the Conviction in this Application to insure all of the known facts and known errors are submitted to the Court in this first 11.072 Writ of Habeas Corpus.

First, Applicant further shows that the Trial Court erred by not quashing the Indictment in this case based on the substance of the indictment due to the State completely disregarding Texas Penal Code § 36.02(a)(4) and subsection (d) in the Indictment.

Second, Applicant further shows that the Trial Court erred when it did not grant the Applicant's request for an Instructed Verdict at the conclusion of the State's case in chief as the State had not shown any evidence, specifically, "direct evidence of an express agreement" among

the parties where in exchange for political contributions, the Applicant was going to "take or withhold a specific exercise of official discretion if such exercise of official discretion would not have been taken or withheld but for the political contributions (benefit)," and that the State had failed to negate the political-contribution exception afforded in the bribery statute.

Third, Applicant further shows that the Trial Court erred by overruling Applicant's proposed jury charge amendments where the charge would have stated that the jury would have been required to find beyond a reasonable doubt that any funds paid to Applicant's campaign were **NOT** political contributions as defined by Title 15, Election Code.

VIII. SUPPLEMENTARY LEGAL CHALLENGES OF CONVICTIONS PRESENTED

LEGAL CHALLENGE ONE: THE TRIAL COURT ERRED BY NOT GRANTING APPLICANT'S MOTION TO QUASH THE INDICTMENT BASED ON SUBSTANCE AND THE LAW

1. Facts pertaining to Legal Challenge One.

As stated *supra,* in a hearing on the Motion to Quash the Indictment based on Substance and the Law on March 11, 2011, Presiding (Visiting) Judge Kerry Russell denied the Motion and stated in part that the "State can charge anyone under any section they want" and ignored the Legislature's intent of preventing this type of indictment against candidates and elected officials by refusing to quash the indictment. Tex. Penal Code §36.02(a)(4) and subsection (e) provide that the State must bring substantially more evidence to charge an elected official or candidate for Bribery where political contributions are involved (i.e. "direct evidence of an express agreement"), which were absent in the indictment in this case.

2. Law and Argument in this Case.

The Texas Court of Criminal Appeals in the December 14, 2016 opinions of the co-defendants in this case stated: "To negate the political contribution exception, the State had to show [beyond a reasonable doubt] that David had no intent for Stacy's money to be used in

Wooten's campaign." *See*, *David Cary v. State*, PD-0445-15 (Tex. Crim. App. 2016). The Court further opined that "the evidence is insufficient to prove that David committed bribery as charged as the State **failed to negate the political-contribution exception** (emphasis added). *Id.* at 10. The reasoning of the Court of Criminal Appeals was identical to the arguments made to the trial court in the hearing on the Motion to Quash the Indictment and reflects how the trial court clearly erred in denying the Motion.

LEGAL CHALLENGE TWO: THE TRIAL COURT ERRED WHEN IT DID NOT GRANT APPLICANT'S MOTION FOR AN INSTRUCTED VERDICT AT THE TIME THE STATE COMPLETED ITS CASE IN CHIEF.

1. Facts pertaining to Legal Challenge Two.

At the conclusion of the State's case in chief, the Applicant made a motion to the Court for an Instructed Verdict as the State had not shown any evidence, specifically, "direct evidence of an express agreement" among the parties where in exchange for political contributions, the Applicant was going to "take or withhold a specific exercise of official discretion if such exercise of official discretion would not have been taken or withheld but for the political contributions (benefit)," and that the State had failed to negate the political-contribution exception afforded in the bribery statute. Visiting District Judge Kerry Russell erroneously denied the Motion for an Instructed Verdict.

2. Law and Argument in this case

When a criminal statute contains an exception to the application of the statute, the State must show evidence beyond a reasonable doubt that the exception does not apply. Texas Penal Code §2.02 clearly states that "The prosecuting attorney must negate the existence of an exception in the accusation charging commission of the offense **and prove beyond a reasonable doubt** that the defendant or defendant's conduct does not fall within the exception. TEX. PENAL CODE §2.02

(Vernon 2017). The exception contained in the bribery statute is also clear: "(d) It is an exception to the application of Subdivisions (1), (2), and (3) of Subsection (a) that the benefit is a political contribution as defined by Title 15, Election Code, or an expenditure made and reported in accordance with Chapter 305, Government Code." TEX. PENAL CODE §36.02(d) (Vernon 2017). This exception applies as the Applicant and co-defendants were charged under sections 36.02(a)(1) and 36.02(a)(2).

A judge shall grant an instructed verdict when the Court finds that the "State failed to present sufficient evidence from which a rational trier of fact could find beyond a reasonable doubt that Defendant is criminally responsible as the primary actor or as a party for committing each essential element of the crime alleged in the charging instrument and each lesser-included offense thereto." *See, Duncan v. Louisiana*, 508 U.S. 275 (1993).

When there is a challenge to the trial judge's ruling on a motion for an instructed verdict it is in actuality a challenge to the sufficiency of the evidence to support the conviction. *Cook v. State*, 858 S.W.2d 467, 471 (Tex. Cr. App. 1993).

Due to the identical counts, alleged evidence, and argument by the State in the Carys' cases as those asserted against Applicant, the Texas Court of Criminal Appeals has already reviewed the facts of this case for the sufficiency of the evidence to support the convictions and ruled that the evidence in both the David and Stacy Cary cases "was insufficient to prove that [David/Stacy] committed bribery as charged because the State failed to negate the political-contribution exception. *David Cary,* PD-0445-15 at 10, *Stacy Cary*, PD-13410-14 at 16. The facts in the instant case are identical. Based on the Court of Criminal Appeals opinions on the two co-defendant cases, Judge Kerry Russell clearly erred when he did not grant the request of the Applicant for an Instructed Verdict at trial. In fact, Judge Kerry Russell stated on the record, "If I'm making a

wrong ruling, there will be somebody that will tell me I did the wrong thing." RR, 11-17-2011, p11 (lines 22-24).

LEGAL CHALLENGE THREE: THE TRIAL COURT ERRED WHEN IT DENIED THE APPLICANT'S REQUESTED JURY CHARGE AMENDMENTS, MORE SPECIFICALLY TO REQUIRE THE STATE TO PROVE BEYOND A REASONABLE DOUBT THAT ANY FUNDS PAID WERE NOT POLITICAL CONTRIBIUTIONS IN ORDER TO CONVICT APPLICANT

1. Facts pertaining to Legal Challenge Three.

This legal challenge touches on both of the above two legal challenges. In an attempt to have the Court hold the State to its burden as required by the Bribery statute and to be required to provide evidence beyond a reasonable doubt that the exception in 36.02(d) did not apply, the Applicant filed a proposed Jury Charge with Judge Kerry Russell. The proposed language stated after each bribery count, in part:

"Lastly, if you believe beyond a reasonable doubt that the defendant did intentionally and knowingly receive and/or accept the above referenced funds, but you do not find and believe from the evidence, or have a reasonable doubt thereof, that the above referenced funds were funds "other than political contributions as defined by Title 15 of the Election Code or expenditures made and reported in accordance with Chapter 305 of the Government Code," then you shall also resolve this doubt in favor of the defendant and acquit the defendant of this count of bribery and say by your verdict "not guilty," and immediately proceed..."

Applicant's proposed Jury Charge to Court on or about October 25, 2011 (not filed in record).

Prior to the jury charge being complete, Applicant stated on the record the need for these provisions to be included in the jury charge and objected to such provisions being removed/excluded from the Jury Charge. The Court denied the request for this language to be included in the final jury charge, further ignoring the exceptions contained in the Bribery statute. Thereby, the State was further relieved of its burden to negate the political-contribution exception due to the jury charge not requiring the State to prove beyond a reasonable doubt that the funds paid by the Carys were NOT political contributions. The only statement to that effect was

contained in the indictment under each bribery count where it stated, "did intentionally or knowingly solicit, accept, or agree to accept from another, namely, Stacy Stine Cary, other than a political contribution as defined by Title 15, Election Code, or an expenditure made and reported in accordance with Chapter 305 of the Government Code." *See,* Indictment (2011).

2. Law and Argument in this case.

In Stacy Cary's appeal to the 5th District Dallas Court of Appeals from the trial court, the Court ruled that the statutory definition of "political contribution" is **limited to *legal* political contributions**." *Stacy Cary,* 05-12-01421-CR, 2014 WL 4261233 at 34. The 5th District Court of Appeals, however, did not explain its reasoning on how it came up with that conclusion. *Id.*

The Texas Court of Criminal Appeals overruled the 5th District Dallas Court of Appeals in the Stacy Cary case and stated that "the words 'political contribution' as used in the bribery statute excludes all political contributions, ***without regard to whether they are in the allowable limits.***" (emphasis added). *Stacy Cary*, PD-1341-14 at 10. Based on the errors made by Judge Kerry Russell in this case and the statement in the Indictments, the State alleged as merely a statement in the indictments that any money paid for use in the Applicant's campaign "were not political contributions," taking away the right of the jury to determine if any funds were or were not political contributions. The Court of Criminal Appeals wholly rejected that assertion and stated that the jury, and not the State, must determine the characterization of any funds alleged in a bribery indictment beyond a reasonable doubt for a conviction to stand. *Id.*

The Stacy Cary Court of Criminal Appeals Opinion went on to further state:

> "When the correct definition of "political contribution" is used to examine the sufficiency of the evidence, no rational jury could have reasonably believed that Stacy sought to get Wooten elected so the Carys could get favorable treatment, but that Stacy had no intention that her money would be used to elect Wooten. In other words, the only benefits conferred to Wooten were transfers of funds from Stacy to Spencer to fund Wooten's campaign. As charged in this case, it is insufficient to show that a person

> intentionally and knowingly offered a benefit as consideration for the recipient's exercise of official discretion. *Compare* TEX. PENAL CODE § 36.02(a)(1)–(a)(2), *with id.* § 36.02(a)(4). The statute requires more. Irrespective of a person's intent to "bribe" someone, the legislature has decided that, if the benefit offered to the recipient is a political contribution, the actor has **not committed bribery as charged in this case.**
>
> *Id.* at 15-16.

The Court of Criminal Appeals applied the same legal analysis and conclusions in both the David and Stacy Cary cases, and when applied to the Applicant's case, the result is the same.

3. The Remaining Ancillary Counts in the Indictment

The Money Laundering and Engaging in Organized Criminal Activity allegations all require the "predicate offense" of bribery to be proven beyond a reasonable doubt or they fail. Because the State cannot prove the predicate offense of bribery, the evidence of Money Laundering and Engaging in Organized Criminal Activity is likewise insufficient to support any of the Applicant's convictions for those offenses as well.

And finally, regarding the Tampering with a Governmental Record count, the Court of Criminal Appeals actually acquitted Applicant in the Stacy Cary Opinion by stating, "The relevant question is whether there is evidence that Stacy, David, or Spencer gave Wooten [Applicant] money in her individual capacity. We conclude that there is none." *Stacy Cary*, PD-1341-14 at 18. "Because there is **no evidence** that Wooten [Applicant] received money from the Carys or Spencer that she was required to disclose on her 2008 PFS (Personal Financial Statement), there is insufficient evidence to support" a conviction. *Id.*

IX. CONCLUSION AND PRAYER

For the above and forgoing reasons, Applicant respectfully prays that upon review, the Court grant Applicant's Writ of Habeas Corpus, reverse each and every conviction and declare the Applicant Innocent of all of the allegations contained in the Indictment as a matter of law, as the highest criminal court in Texas has already given the Court clear guidance and legally binding precedent.

Respectfully submitted,

Peter A. Schulte
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Dallas, Texas 75204-2171
Office: 214-521-2200
Fax: 214-276-1661
pete@schulteapgar.com

By:_____
PETER A. SCHULTE
Attorney for Applicant
State Bar No. 24044677

X. CERTIFICATE OF SERVICE

This is to certify that on May 10, 2017, a true and correct copy of the above and foregoing document was served on the State of Texas by delivering a copy to the Office of Attorney General, via electronic mail to Adrienne.McFarland@oag.texas.gov and Joseph.Corcoran@oag.texas.gov.

_____
PETER A. SCHULTE

THE STATE OF TEXAS V. SUZANNE H. WOOTEN
CAUSE # 366-81639-2011

PHYSICAL DESCRIPTION: Race: W Sex: F DOB: 4/23/1968 Height: 5'04" Weight: 135

Count One – Engaging in Organized Criminal Activity

CODE SECTION: TEXAS PENAL CODE § 71.02(a)

DEGREE OF FELONY: FIRST OFFENSE CODE 73991005 BOND_____

Count Two – Bribery

CODE SECTION: TEXAS PENAL CODE § 36.02

DEGREE OF FELONY: FIRST OFFENSE CODE 5199018 BOND_____

Count Three – Bribery

CODE SECTION: TEXAS PENAL CODE § 36.02

DEGREE OF FELONY: SECOND OFFENSE CODE 5199018 BOND_____

Count Four – Bribery

CODE SECTION: TEXAS PENAL CODE § 36.02

DEGREE OF FELONY: SECOND OFFENSE CODE 5199018 BOND_____

Count Five – Bribery

CODE SECTION: TEXAS PENAL CODE § 36.02

DEGREE OF FELONY: SECOND OFFENSE CODE 5199018 BOND_____

Count Six – Bribery

CODE SECTION: TEXAS PENAL CODE § 36.02

DEGREE OF FELONY: SECOND OFFENSE CODE 5199018 BOND_____

Count Seven – Bribery

CODE SECTION: TEXAS PENAL CODE § 36.02

DEGREE OF FELONY: SECOND OFFENSE CODE 5199018 BOND_____

Count Eight – Money Laundering ($100,000 – $200,000)

CODE SECTION: TEXAS PENAL CODE § 34.02

DEGREE OF FELONY: SECOND OFFENSE CODE 269 90152 BOND_____

Count Nine – Tampering with a Governmental Record

CODE SECTION: TEXAS PENAL CODE § 37.10

DEGREE OF FELONY: THIRD OFFENSE CODE 7395623 ~~7394065~~ BOND_____

Companion Cases: David, Cary, Stacy Stine Cary, James Stephen Spencer

IN THE 366th JUDICIAL DISTRICT COURT OF COLLIN COUNTY, TEXAS

GRAND JURY INDICTMENT
(SUPERSEDING INDICTMENT)

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF TEXAS:

THE GRAND JURY, for the County of COLLIN, State of Texas, duly organized, impaneled, and sworn as such as the July Term, A.D. 2011, of the 199th Judicial District Court for said County, upon their oaths present in and to said Court at said term that:

COUNT ONE

SUZANNE H. WOOTEN

hereinafter styled Defendant, on or about and between September 19, 2007 and October 20, 2009, and before presentment of this indictment, in the County and State aforesaid, with intent to establish, maintain, and participate in a combination and in the profits of a combination of three or more persons, namely, the Defendant, David Cary, Stacy Stine Cary, and James Stephen Spencer, did commit and conspire to commit the following offenses:

Bribery, in that the Defendant did then and there intentionally and knowingly solicit, accept, and agree to accept a benefit from another, namely Stacy Stine Cary, other than a political contribution as defined by Title 15, Election Code, or an expenditure made and reported in accordance with Chapter 305 of the Government Code, to-wit: one or more of the following transactions:

Date of Transfer	Date of Deposit	Amount
January 4, 2008	January 4, 2008	$50,000
January 30, 2008	February 4, 2008	$25,000
February 14, 2008	February 15, 2008	$25,000
February 26, 2008	February 26, 2008	$25,000
March 7, 2008	March 7, 2008	$10,000
March 14, 2008	March 14, 2008	$15,000

and the Defendant was a public servant, to-wit: a candidate for the office of Judge of the 380th Judicial District Court and presiding Judge of the 380th Judicial District Court, as consideration for Defendant's decision, opinion, recommendation, vote, and other exercise of discretion as a public servant and as consideration for Defendant's decision, vote, recommendation, and other exercise of official discretion in a judicial proceeding, to-wit: filing paperwork to run for Judge, proceeding and continuing with a campaign to unseat the incumbent elected Judge of the 380th Judicial District Court, and as Judge of the 380th Judicial District Court presiding over and issuing favorable rulings in cases in which David Cary and Stacy Stine Cary are parties;

Money Laundering, in that the Defendant did then and there, pursuant to one scheme and continuing course of conduct, knowingly acquire, maintain an interest in, conceal, possess, transfer the proceeds of criminal activity, and conduct, supervise, and facilitate a transaction

involving the proceeds of criminal activity, to-wit: Bribery, and the aggregate value of said proceeds was $100,000 or more but less than $200,000;

Tampering with a Government Record, in that the Defendant did then and there, with intent to defraud and harm another, namely, the State of Texas, the Texas Ethics Commission, and the citizens of the State of Texas, intentionally and knowingly make, present, and use a governmental record with knowledge of its falsity, to-wit: prepared, swore, and affirmed a Personal Financial Statement that was submitted to the Texas Ethics Commission and did not list and report all gifts and loans, as required by Texas Government Code Sec. 572.023, omitting Stacy Stine Cary, David Cary, and James Stephen Spencer under the heading "Gifts," and the heading "Personal Notes and Lease Agreements," when in truth and in fact said Defendant had received gifts and loans from Stacy Stine Cary, David Cary, and James Stephen Spencer during the calendar year 2008;

and in furtherance of the conspiracy to commit said offenses the Defendant performed one or more overt acts, to-wit: filing paperwork to run for Judge, proceeding and continuing with a campaign to unseat the incumbent elected Judge of the 380th Judicial District Court, approving campaign literature, approving, supervising, and directing expenditures, communicating with other members of the combination, concealing payments, gifts, and loans from David Cary, Stacy Stine Cary, and James Stephen Spencer, and as Judge of the 380th Judicial District Court presiding over and issuing favorable rulings in cases in which David Cary and Stacy Stine Cary are parties;

and the Grand Jury further presents in and to said Court at said term that:

COUNT TWO

SUZANNE H. WOOTEN

hereinafter styled Defendant, on or about January 4, 2008, and before presentment of this indictment, in the County and State aforesaid, did then and there intentionally and knowingly solicit, accept, and agree to accept a benefit from another, namely Stacy Stine Cary, other than a political contribution as defined by Title 15, Election Code, or an expenditure made and reported in accordance with Chapter 305 of the Government Code, to-wit: $50,000, and the Defendant was a public servant, to-wit: a candidate for the office of Judge of the 380th Judicial District Court and presiding Judge of the 380th Judicial District Court, as consideration for Defendant's decision, opinion, recommendation, vote, and other exercise of discretion as a public servant and as consideration for Defendant's decision, vote, recommendation, and other exercise of official discretion in a judicial proceeding, to-wit: filing paperwork to run for Judge, proceeding and continuing with a campaign to unseat the incumbent elected Judge of the 380th Judicial District Court, and as Judge of the 380th Judicial District Court presiding over and issuing favorable rulings in cases in which David Cary and Stacy Stine Cary are parties;

and the Grand Jury further presents in and to said Court at said term that:

COUNT THREE

SUZANNE H. WOOTEN

hereinafter styled Defendant, on or about January 30, 2008, and before presentment of this indictment, in the County and State aforesaid, did then and there intentionally and knowingly solicit, accept, and agree to accept a benefit from another, namely Stacy Stine Cary, other than a

political contribution as defined by Title 15, Election Code, or an expenditure made and reported in accordance with Chapter 305 of the Government Code, to-wit: $25,000, and the Defendant was a public servant, to-wit: a candidate for the office of Judge of the 380th Judicial District Court and presiding Judge of the 380th Judicial District Court, as consideration for Defendant's decision, opinion, recommendation, vote, and other exercise of discretion as a public servant and as consideration for Defendant's decision, vote, recommendation, and other exercise of official discretion in a judicial proceeding, to-wit: filing paperwork to run for Judge, proceeding and continuing with a campaign to unseat the incumbent elected Judge of the 380th Judicial District Court, and as Judge of the 380th Judicial District Court presiding over and issuing favorable rulings in cases in which David Cary and Stacy Stine Cary are parties;

and the Grand Jury further presents in and to said Court at said term that:

COUNT FOUR

SUZANNE H. WOOTEN

hereinafter styled Defendant, on or about February 14, 2008, and before presentment of this indictment, in the County and State aforesaid, did then and there intentionally and knowingly solicit, accept, and agree to accept a benefit from another, namely Stacy Stine Cary, other than a political contribution as defined by Title 15, Election Code, or an expenditure made and reported in accordance with Chapter 305 of the Government Code, to-wit: $25,000, and the Defendant was a public servant, to-wit: a candidate for the office of Judge of the 380th Judicial District Court and presiding Judge of the 380th Judicial District Court, as consideration for Defendant's decision, opinion, recommendation, vote, and other exercise of discretion as a public servant and

as consideration for Defendant's decision, vote, recommendation, and other exercise of official discretion in a judicial proceeding, to-wit: filing paperwork to run for Judge, proceeding and continuing with a campaign to unseat the incumbent elected Judge of the 380th Judicial District Court, and as Judge of the 380th Judicial District Court presiding over and issuing favorable rulings in cases in which David Cary and Stacy Stine Cary are parties;

and the Grand Jury further presents in and to said Court at said term that:

COUNT FIVE

SUZANNE H. WOOTEN

hereinafter styled Defendant, on or about February 26, 2008, and before presentment of this indictment, in the County and State aforesaid, did then and there intentionally and knowingly solicit, accept, and agree to accept a benefit from another, namely Stacy Stine Cary, other than a political contribution as defined by Title 15, Election Code, or an expenditure made and reported in accordance with Chapter 305 of the Government Code, to-wit: $25,000, and the Defendant was a public servant, to-wit: a candidate for the office of Judge of the 380th Judicial District Court and presiding Judge of the 380th Judicial District Court, as consideration for Defendant's decision, opinion, recommendation, vote, and other exercise of discretion as a public servant and as consideration for Defendant's decision, vote, recommendation, and other exercise of official discretion in a judicial proceeding, to-wit: filing paperwork to run for Judge, proceeding and continuing with a campaign to unseat the incumbent elected Judge of the 380th Judicial District Court, and as Judge of the 380th Judicial District Court presiding over and issuing favorable rulings in cases in which David Cary and Stacy Stine Cary are parties;

and the Grand Jury further presents in and to said Court at said term that:

COUNT SIX

SUZANNE H. WOOTEN

hereinafter styled Defendant, on or about March 7, 2008, and before presentment of this indictment, in the County and State aforesaid, did then and there intentionally and knowingly solicit, accept, and agree to accept a benefit from another, namely Stacy Stine Cary, other than a political contribution as defined by Title 15, Election Code, or an expenditure made and reported in accordance with Chapter 305 of the Government Code, to-wit: $10,000, and the Defendant was a public servant, to-wit: a candidate for the office of Judge of the 380th Judicial District Court and presiding Judge of the 380th Judicial District Court, as consideration for Defendant's decision, opinion, recommendation, vote, and other exercise of discretion as a public servant and as consideration for Defendant's decision, vote, recommendation, and other exercise of official discretion in a judicial proceeding, to-wit: filing paperwork to run for Judge, proceeding and continuing with a campaign to unseat the incumbent elected Judge of the 380th Judicial District Court, and as Judge of the 380th Judicial District Court presiding over and issuing favorable rulings in cases in which David Cary and Stacy Stine Cary are parties;

and the Grand Jury further presents in and to said Court at said term that:

COUNT SEVEN

SUZANNE H. WOOTEN

hereinafter styled Defendant, on or about March 14, 2008, and before presentment of this indictment, in the County and State aforesaid, did then and there intentionally and knowingly solicit, accept, and agree to accept a benefit from another, namely Stacy Stine Cary, other than a political contribution as defined by Title 15, Election Code, or an expenditure made and reported in accordance with Chapter 305 of the Government Code, to-wit: $15,000, and the Defendant was a public servant, to-wit: a candidate for the office of Judge of the 380th Judicial District Court and presiding Judge of the 380th Judicial District Court, as consideration for Defendant's decision, opinion, recommendation, vote, and other exercise of discretion as a public servant and as consideration for Defendant's decision, vote, recommendation, and other exercise of official discretion in a judicial proceeding, to-wit: filing paperwork to run for Judge, proceeding and continuing with a campaign to unseat the incumbent elected Judge of the 380th Judicial District Court, and as Judge of the 380th Judicial District Court presiding over and issuing favorable rulings in cases in which David Cary and Stacy Stine Cary are parties;

and the Grand Jury further presents in and to said Court at said term that:

COUNT EIGHT

SUZANNE H. WOOTEN

hereinafter styled Defendant on or about and between January 4, 2008 and March 14, 2008, and before the presentment of this indictment, in the County and State aforesaid, did then and there, pursuant to one scheme and continuing course of conduct, knowingly acquire, maintain an interest in, conceal, possess, transfer the proceeds of criminal activity, and conduct, supervise,

and facilitate a transaction involving the proceeds of criminal activity, to-wit: Bribery, and the aggregate value of said proceeds was $100,000 or more but less than $200,000

and the Grand Jury further presents in and to said Court at said term that:

COUNT NINE

SUZANNE H. WOOTEN

hereinafter styled Defendant on or about April 9, 2009, and before the presentment of this indictment, in the County and State aforesaid, did then and there, with intent to defraud and harm another, namely, the State of Texas, the Texas Ethics Commission, and the citizens of the State of Texas, intentionally and knowingly make, present, and use a governmental record with knowledge of its falsity, to-wit: prepared, swore, and affirmed a Personal Financial Statement that was submitted to the Texas Ethics Commission and did not list and report all gifts and loans, as required by Texas Government Code Sec. 572.023, omitting Stacy Stine Cary, David Cary, and James Stephen Spencer under the heading "Gifts," and the heading "Personal Notes and Lease Agreements," when in truth and in fact said Defendant had received gifts and loans from Stacy Stine Cary, David Cary, and James Stephen Spencer during the calendar year 2008;

TOLLING PARAGRAPH

And it is further presented in and to said Court that an indictment charging the offenses of Engaging in Organized Criminal Activity and Bribery is pending in a court of competent jurisdiction, to-wit: cause number 366-82214-10 in the 366th Judicial District Court, Collin

County, styled State of Texas v. Suzanne H. Wooten, which was filed on October 14, 2010 and remains pending on the date this Grand Jury presents this indictment to said Court.

AGAINST THE PEACE AND DIGNITY OF THE STATE.

FOREMAN OF THE GRAND JURY

Witnesses:

Glenda Anderson

James P. Bailey

Kyle Basinger

John Beasley

Alma Benavides

Charity Borserine

Amy Cabala

Karen Callihan

David Cary

Stacy Stine Cary

Alexis Katz Caughey

George Henry Clements

Gavin Cone

FILED

2011 JUL 14 PM 8:34

PATRICIA WIGGER
DISTRICT CLERK
COLLIN COUNTY, TEXAS
BY _____ DEPUTY

Darlina Crowder

Daniel Dodd

Michael Finley

Kersten Alexander Hayes

William D. Johnson

Wendy Lee Kelly

Paul Dennis Key

David Marion Kleckner

Tim Lambert

Brian Loughmiller

James Mosser

Kimberlee Perkins

Michael Puhl

James Stephen Spencer

Kyle Swihart

Edward Lawson Valentine IV

Karl Voightsberger

NO. 366-82214-10

STATE OF TEXAS	§	**IN THE DISTRICT COURT**
	§	
vs.	§	**366TH JUDICIAL DISTRICT**
	§	
HON. SUZANNE H. WOOTEN	§	**COLLIN COUNTY, TEXAS**

MOTION TO QUASH AND EXCEPTION TO SUBSTANCE OF INDICTMENT

TO THE HONORABLE JUDGE OF SAID COURT:

Now comes Hon. Suzanne H. Wooten, Defendant, and brings this Motion to Quash and Exception to Substance of the Indictment and in support thereof shows:

1. The Hon. Suzanne H. Wooten was charged by indictment on October 14, 2010 with the alleged offense of Engaging in Organized Criminal Activity along with six counts of Bribery.

2. The offense, which is alleged to have been committed on or about September 17, 2007 is a First Degree Felony.

3. This exception is brought pursuant to the grounds specified in Article 27.08 of the Texas Code of Criminal Procedure, as well as Article I Sections 10 and 19 of the Texas Constitution and the Fifth, Sixth and Fourteenth Amendments to the United States Constitution.

4. The accused's rights under the Fifth, Sixth, and Fourteenth Amendments to be fairly informed of the charge against which she was required to defend was denied by the failure of the Indictment to allege essential elements of the offense, including, but not limited to, "**Intentionally or knowingly** solicits, accepts, or agrees to accept from another...any benefit..."

5. The Indictment is insufficient because it fails to contain the elements of the offense charged, fails to fairly inform the defendant of the charge against which she must defend, and because it fails to enable the defendant to plead an acquittal or conviction in bar of future prosecutions for the same offense.

6. Defendant, Hon. Suzanne H. Wooten, alleges that it does not appear from the indictment that an offense against the law was committed by the Hon. Suzanne H. Wooten. Specifically, Defendant shows the following:

a. That the Indictment does not allege which County in Texas that the offenses were allegedly committed. *See*, TEX. CODE CRIM. PROC. Art. 21.02(5) (Vernon 2010).

b. The indictment vaguely resembles Texas Penal Code Section 36.02(a)(2) in which it attempts to allege that the Defendant received funds "which was not a political contribution as defined by Title 15 of the Election Code or Expenditures made in accordance with Chapter 305 Government Code." However, in open Court on November 19, 2010, Mr. Brian Chandler, one of the Prosecuting Attorneys, stated that this case was about "direct expenditures to the Defendant's 2008 Judicial Campaign by a third party." Such alleged "expenditures" would be defined under Title 15 of the Election Code. Therefore, the Indictment is defective in that the State attempts to lessen their evidentiary burden by avoiding the showing of proof of any **"direct evidence of an express agreement"** between the parties pursuant to TEX. PEN. CODE §36.02(a)(4) (Vernon 2010).

c. Further, the Indictment states that the Defendant allegedly accepted such contributions for "presiding over and issuing favorable rulings in cases pending in the 380th Judicial District Court." The Indictment is defective because it fails to specify which cases, if any, and/or how any rulings were "favorable."

d. The Indictment also wholly fails to specify where any of the alleged contributions were either delivered to the Defendant or used by the Defendant for her benefit. It further fails to specify in which areas of the 2008 Judicial campaign, if any, these funds were expended.

e. Therefore, the Engaging in Organized Criminal Activity allegation cannot stand alone and must also be quashed along with the six counts of bribery for the reasons stated *supra*.

7. Furthermore, based upon information from several sources, including discovery items received from the Attorney General's Office, the original complaint that began this investigation came from Charles Sandoval, the incumbent Judge defeated by the Defendant in the 2008 Republican Primary. This complaint, which was submitted to Mr. Sandoval's political ally John Roach on July 30, 2008, is attached to this Motion as Exhibit "A" and is fully incorporated by reference into this Motion. A second letter from Charles Sandoval, dated October 15, 2008, was sent in follow-up to Christopher Milner of the Collin County District Attorney's Office. This letter, showing gross factual inaccuracies, is attached to this Motion as Exhibit "B" and is fully incorporated into this Motion. Defendant believes that this does not amount to a valid complaint and therefore this Indictment should be quashed in accordance with the law.

WHEREFORE, PREMISES CONSIDERED, Suzanne Wooten prays that the Court quash the indictment due to the above outlined defects of substance, and discharge Defendant.

Respectfully submitted,

SCHULTE & APGAR PLLC
4131 N. Central Expressway
Suite 680
Dallas, Texas 75204
Tel: (214) 521-2200
Fax: (214) 739-3234

By: _____
PETER A. SCHULTE
State Bar No. 24044677
Attorney for Hon. Suzanne H. Wooten

CERTIFICATE OF SERVICE

This is to certify that on January 25, 2011, a true and correct copy of the above and foregoing document was served on the following by facsimile or U.S. First Class Certified Mail, RRR:

Brian Chandler, Esq.
On behalf of the Office of Texas Attorney General (including Eric J.R. Nichols, Esq. & Harry E. White, Esq.)
Criminal Prosecution Division
P.O. Box 12548
Austin, Texas 78711-2548
Phone: (512) 463-2529
Facsimile: (512) 424-4570

_____
PETER A. SCHULTE

THE STATE OF TEXAS V. DAVID CARY
CAUSE # 366-81636-2011

PHYSICAL DESCRIPTION: Race: W Sex: M DOB: 6/20/1955 Height: 6'02" Weight: 240

Count One – Engaging in Organized Criminal Activity

CODE SECTION: TEXAS PENAL CODE § 71.02(a)

DEGREE OF FELONY: FIRST OFFENSE CODE 73991005 BOND_____

Count Two – Bribery

CODE SECTION: TEXAS PENAL CODE § 36.02

DEGREE OF FELONY: FIRST OFFENSE CODE 5199018 BOND_____

Count Three – Bribery

CODE SECTION: TEXAS PENAL CODE § 36.02

DEGREE OF FELONY: SECOND OFFENSE CODE 5199018 BOND_____

Count Four – Bribery

CODE SECTION: TEXAS PENAL CODE § 36.02

DEGREE OF FELONY: SECOND OFFENSE CODE 5199018 BOND_____

Count Five – Bribery

CODE SECTION: TEXAS PENAL CODE § 36.02

DEGREE OF FELONY: SECOND OFFENSE CODE 5199018 BOND_____

Count Six – Bribery

CODE SECTION: TEXAS PENAL CODE § 36.02

DEGREE OF FELONY: SECOND OFFENSE CODE 5199018 BOND_____

Count Seven – Bribery

CODE SECTION: TEXAS PENAL CODE § 36.02

DEGREE OF FELONY: SECOND OFFENSE CODE 5199018 BOND_____

Count Eight – Money Laundering ($100,000 – $200,000)

CODE SECTION: TEXAS PENAL CODE § 34.02

DEGREE OF FELONY: SECOND OFFENSE CODE 26990152 BOND_____

Companion Cases: Stacy Stine Cary, James Stephen Spencer, Suzanne H. Wooten

IN THE 366th JUDICIAL DISTRICT COURT OF COLLIN COUNTY, TEXAS

GRAND JURY INDICTMENT
(SUPERSEDING INDICTMENT)

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF TEXAS:

THE GRAND JURY, for the County of COLLIN, State of Texas, duly organized, impaneled, and sworn as such as the July Term, A.D. 2011, of the 199th Judicial District Court for said County, upon their oaths present in and to said Court at said term that:

COUNT ONE

DAVID CARY

hereinafter styled Defendant, on or about and between September 19, 2007 and October 20, 2009, and before presentment of this indictment, in the County and State aforesaid, with intent to establish, maintain, and participate in a combination and in the profits of a combination of three or more persons, namely, the Defendant, Suzanne H. Wooten, Stacy Stine Cary, and James Stephen Spencer, did commit and conspire to commit the following offenses:

Bribery, in that the Defendant did then and there intentionally and knowingly offer, confer, and agree to confer a benefit, other than a political contribution as defined by Title 15,

Election Code, or an expenditure made and reported in accordance with Chapter 305 of the Government Code, to-wit: one or more of the following transactions:

Date of Transfer	Date of Deposit	Amount
January 4, 2008	January 4, 2008	$50,000
January 30, 2008	February 4, 2008	$25,000
February 14, 2008	February 15, 2008	$25,000
February 26, 2008	February 26, 2008	$25,000
March 7, 2008	March 7, 2008	$10,000
March 14, 2008	March 14, 2008	$15,000

to Suzanne H. Wooten, a public servant, to-wit: a candidate for the office of Judge of the 380th Judicial District Court and presiding Judge of the 380th Judicial District Court, as consideration for Suzanne H. Wooten's decision, opinion, recommendation, vote, and other exercise of discretion as a public servant and as consideration for Suzanne H. Wooten's decision, vote, recommendation, and other exercise of official discretion in a judicial proceeding, to-wit: filing paperwork to run for Judge, proceeding and continuing with a campaign to unseat the incumbent elected Judge of the 380th Judicial District Court, and as Judge of the 380th Judicial District Court presiding over and issuing favorable rulings in cases in which the Defendant and Stacy Stine Cary are parties;

Money Laundering, in that the Defendant did then and there, pursuant to one scheme and continuing course of conduct, knowingly finance, invest, intend to finance and invest funds that the Defendant believed were intended to further the commission of criminal activity, to-wit: Bribery, and the aggregate value of said proceeds was $100,000 or more but less than $200,000;

Tampering with a Government Record, in that Suzanne H. Wooten did then and there, with intent to defraud and harm another, namely, the State of Texas, the Texas Ethics Commission, and the citizens of the State of Texas, intentionally and knowingly make, present, and use a governmental record with knowledge of its falsity, to-wit: prepared, swore, and affirmed a Personal Financial Statement that was submitted to the Texas Ethics Commission and did not list and report all gifts and loans, as required by Texas Government Code Sec. 572.023, omitting the Defendant, Stacy Stine Cary, and James Stephen Spencer under the heading "Gifts," and the heading "Personal Notes and Lease Agreements," when in truth and in fact said Defendant had received gifts and loans from the Defendant, Stacy Stine Cary, and James Stephen Spencer during the calendar year 2008;

and in furtherance of the conspiracy to commit said offenses the Defendant performed one or more overt acts, to-wit: communicated with other members of the combination, and organized, planned, and supervised the other members of the combination;

and the Grand Jury further presents in and to said Court at said term that:

COUNT TWO

DAVID CARY

hereinafter styled Defendant, on or about January 4, 2008, and before presentment of this indictment, in the County and State aforesaid, did then and there intentionally and knowingly offer, confer, and agree to confer a benefit, other than a political contribution as defined by Title 15, Election Code, or an expenditure made and reported in accordance with Chapter 305 of the Government Code, to-wit: $50,000, to Suzanne H. Wooten, a public servant, to-wit: a candidate

for the office of Judge of the 380th Judicial District Court and presiding Judge of the 380th Judicial District Court, as consideration for Suzanne H. Wooten's decision, opinion, recommendation, vote, and other exercise of discretion as a public servant and as consideration for Suzanne H. Wooten's decision, vote, recommendation, and other exercise of official discretion in a judicial proceeding, to-wit: filing paperwork to run for Judge, proceeding and continuing with a campaign to unseat the incumbent elected Judge of the 380th Judicial District Court, and as Judge of the 380th Judicial District Court presiding over and issuing favorable rulings in cases in which the Defendant and Stacy Stine Cary are parties;

and the Grand Jury further presents in and to said Court at said term that:

COUNT THREE

DAVID CARY

hereinafter styled Defendant, on or about January 30, 2008, and before presentment of this indictment, in the County and State aforesaid, did then and there intentionally and knowingly offer, confer, and agree to confer a benefit, other than a political contribution as defined by Title 15, Election Code, or an expenditure made and reported in accordance with Chapter 305 of the Government Code, to-wit: $25,000, to Suzanne H. Wooten, a public servant, to-wit: a candidate for the office of Judge of the 380th Judicial District Court and presiding Judge of the 380th Judicial District Court, as consideration for Suzanne H. Wooten's decision, opinion, recommendation, vote, and other exercise of discretion as a public servant and as consideration for Suzanne H. Wooten's decision, vote, recommendation, and other exercise of official discretion in a judicial proceeding, to-wit: filing paperwork to run for Judge, proceeding and

continuing with a campaign to unseat the incumbent elected Judge of the 380th Judicial District Court, and as Judge of the 380th Judicial District Court presiding over and issuing favorable rulings in cases in which the Defendant and Stacy Stine Cary are parties;

and the Grand Jury further presents in and to said Court at said term that:

COUNT FOUR

DAVID CARY

hereinafter styled Defendant, on or about February 14, 2008, and before presentment of this indictment, in the County and State aforesaid, did then and there intentionally and knowingly offer, confer, and agree to confer a benefit, other than a political contribution as defined by Title 15, Election Code, or an expenditure made and reported in accordance with Chapter 305 of the Government Code, to-wit: $25,000, to Suzanne H. Wooten, a public servant, to-wit: a candidate for the office of Judge of the 380th Judicial District Court and presiding Judge of the 380th Judicial District Court, as consideration for Suzanne H. Wooten's decision, opinion, recommendation, vote, and other exercise of discretion as a public servant and as consideration for Suzanne H. Wooten's decision, vote, recommendation, and other exercise of official discretion in a judicial proceeding, to-wit: filing paperwork to run for Judge, proceeding and continuing with a campaign to unseat the incumbent elected Judge of the 380th Judicial District Court, and as Judge of the 380th Judicial District Court presiding over and issuing favorable rulings in cases in which the Defendant and Stacy Stine Cary are parties;

and the Grand Jury further presents in and to said Court at said term that:

COUNT FIVE

DAVID CARY

hereinafter styled Defendant, on or about February 26, 2008, and before presentment of this indictment, in the County and State aforesaid, did then and there intentionally and knowingly offer, confer, and agree to confer a benefit, other than a political contribution as defined by Title 15, Election Code, or an expenditure made and reported in accordance with Chapter 305 of the Government Code, to-wit: $25,000, to Suzanne H. Wooten, a public servant, to-wit: a candidate for the office of Judge of the 380th Judicial District Court and presiding Judge of the 380th Judicial District Court, as consideration for Suzanne H. Wooten's decision, opinion, recommendation, vote, and other exercise of discretion as a public servant and as consideration for Suzanne H. Wooten's decision, vote, recommendation, and other exercise of official discretion in a judicial proceeding, to-wit: filing paperwork to run for Judge, proceeding and continuing with a campaign to unseat the incumbent elected Judge of the 380th Judicial District Court, and as Judge of the 380th Judicial District Court presiding over and issuing favorable rulings in cases in which the Defendant and Stacy Stine Cary are parties;

and the Grand Jury further presents in and to said Court at said term that:

COUNT SIX

DAVID CARY

hereinafter styled Defendant, on or about March 7, 2008, and before presentment of this indictment, in the County and State aforesaid, did then and there intentionally and knowingly

offer, confer, and agree to confer a benefit, other than a political contribution as defined by Title 15, Election Code, or an expenditure made and reported in accordance with Chapter 305 of the Government Code, to-wit: $10,000, to Suzanne H. Wooten, a public servant, to-wit: a candidate for the office of Judge of the 380th Judicial District Court and presiding Judge of the 380th Judicial District Court, as consideration for Suzanne H. Wooten's decision, opinion, recommendation, vote, and other exercise of discretion as a public servant and as consideration for Suzanne H. Wooten's decision, vote, recommendation, and other exercise of official discretion in a judicial proceeding, to-wit: filing paperwork to run for Judge, proceeding and continuing with a campaign to unseat the incumbent elected Judge of the 380th Judicial District Court, and as Judge of the 380th Judicial District Court presiding over and issuing favorable rulings in cases in which the Defendant and Stacy Stine Cary are parties;

and the Grand Jury further presents in and to said Court at said term that:

COUNT SEVEN

DAVID CARY

hereinafter styled Defendant, on or about March 14, 2008, and before presentment of this indictment, in the County and State aforesaid, did then and there intentionally and knowingly offer, confer, and agree to confer a benefit, other than a political contribution as defined by Title 15, Election Code, or an expenditure made and reported in accordance with Chapter 305 of the Government Code, to-wit: $15,000, to Suzanne H. Wooten, a public servant, to-wit: a candidate for the office of Judge of the 380th Judicial District Court and presiding Judge of the 380th Judicial District Court, as consideration for Suzanne H. Wooten's decision, opinion,

recommendation, vote, and other exercise of discretion as a public servant and as consideration for Suzanne H. Wooten's decision, vote, recommendation, and other exercise of official discretion in a judicial proceeding, to-wit: filing paperwork to run for Judge, proceeding and continuing with a campaign to unseat the incumbent elected Judge of the 380th Judicial District Court, and as Judge of the 380th Judicial District Court presiding over and issuing favorable rulings in cases in which the Defendant and Stacy Stine Cary are parties;

and the Grand Jury further presents in and to said Court at said term that:

COUNT EIGHT

DAVID CARY

hereinafter styled Defendant on or about and between January 4, 2008 and March 14, 2008, and before the presentment of this indictment, in the County and State aforesaid, did then and there, pursuant to one scheme and continuing course of conduct, knowingly finance, invest, and intend to finance and invest funds that the Defendant believed were intended to further the commission of criminal activity, to-wit: Bribery, and the aggregate value of said proceeds was $100,000 or more but less than $200,000;

TOLLING PARAGRAPH

And it is further presented in and to said Court that an indictment charging the offenses of Engaging in Organized Criminal Activity and Bribery is pending in a court of competent jurisdiction, to-wit: cause number 366-82211-10 in the 366th Judicial District Court, Collin

County, styled State of Texas v. David Cary, which was filed on October 14, 2010 and remains pending on the date this Grand Jury presents this indictment to said Court.

AGAINST THE PEACE AND DIGNITY OF THE STATE.

FOREMAN OF THE GRAND JURY

Witnesses:

Glenda Anderson

James P. Bailey

Kyle Basinger

John Beasley

Alma Benavides

Charity Borserine

Amy Cabala

Karen Callihan

David Cary

Stacy Stine Cary

Alexis Katz Caughey

George Henry Clements

Gavin Cone

FILED

2011 JUL 14 PM 8:34

PATRICIA [illegible]
DISTRICT CLERK
COLLIN COUNTY, TEXAS
BY [illegible] DEPUTY

Darlina Crowder

Daniel Dodd

Michael Finley

Kersten Alexander Hayes

William D. Johnson

Wendy Lee Kelly

Paul Dennis Key

David Marion Kleckner

Tim Lambert

Brian Loughmiller

James Mosser

Kimberlee Perkins

Michael Puhl

James Stephen Spencer

Kyle Swihart

Edward Lawson Valentine IV

Karl Voightsberger

THE STATE OF TEXAS V. STACY STINE CARY
CAUSE # 366-81637-2011

PHYSICAL DESCRIPTION: Race: W Sex: F DOB: 9/11/1955 Height: 5'07" Weight: 150

Count One – Engaging in Organized Criminal Activity

CODE SECTION: TEXAS PENAL CODE § 71.02(a)

DEGREE OF FELONY: FIRST OFFENSE CODE 73991005 BOND_____

Count Two – Bribery

CODE SECTION: TEXAS PENAL CODE § 36.02

DEGREE OF FELONY: FIRST OFFENSE CODE 5199018 BOND_____

Count Three – Bribery

CODE SECTION: TEXAS PENAL CODE § 36.02

DEGREE OF FELONY: SECOND OFFENSE CODE 5199018 BOND_____

Count Four – Bribery

CODE SECTION: TEXAS PENAL CODE § 36.02

DEGREE OF FELONY: SECOND OFFENSE CODE 5199018 BOND_____

Count Five – Bribery

CODE SECTION: TEXAS PENAL CODE § 36.02

DEGREE OF FELONY: SECOND OFFENSE CODE 5199018 BOND_____

Count Six – Bribery

CODE SECTION: TEXAS PENAL CODE § 36.02

DEGREE OF FELONY: SECOND OFFENSE CODE 5199018 BOND_____

Count Seven – Bribery

CODE SECTION: TEXAS PENAL CODE § 36.02

DEGREE OF FELONY: SECOND OFFENSE CODE 5199018 BOND_____

Count Eight – Money Laundering ($100,000 – $200,000)

CODE SECTION: TEXAS PENAL CODE § 34.02

DEGREE OF FELONY: SECOND OFFENSE CODE 26990152 BOND_____

Companion Cases: David Cary, James Stephen Spencer, Suzanne H. Wooten

IN THE 366th JUDICIAL DISTRICT COURT OF COLLIN COUNTY, TEXAS

GRAND JURY INDICTMENT
(SUPERSEDING INDICTMENT)

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF TEXAS:

THE GRAND JURY, for the County of COLLIN, State of Texas, duly organized, impaneled, and sworn as such as the July Term, A.D. 2011, of the 199th Judicial District Court for said County, upon their oaths present in and to said Court at said term that:

COUNT ONE

STACY STINE CARY

hereinafter styled Defendant, on or about and between September 19, 2007 and October 20, 2009, and before presentment of this indictment, in the County and State aforesaid, with intent to establish, maintain, and participate in a combination and in the profits of a combination of three or more persons, namely, the Defendant, Suzanne H. Wooten, David Cary, and James Stephen Spencer, did commit and conspire to commit the following offenses:

Bribery, in that the Defendant did then and there intentionally and knowingly offer, confer, and agree to confer a benefit, other than a political contribution as defined by Title 15,

Election Code, or an expenditure made and reported in accordance with Chapter 305 of the Government Code, to-wit: one or more of the following transactions:

Date of Transfer	Date of Deposit	Amount
January 4, 2008	January 4, 2008	$50,000
January 30, 2008	February 4, 2008	$25,000
February 14, 2008	February 15, 2008	$25,000
February 26, 2008	February 26, 2008	$25,000
March 7, 2008	March 7, 2008	$10,000
March 14, 2008	March 14, 2008	$15,000

to Suzanne H. Wooten, a public servant, to-wit: a candidate for the office of Judge of the 380th Judicial District Court and presiding Judge of the 380th Judicial District Court, as consideration for Suzanne H. Wooten's decision, opinion, recommendation, vote, and other exercise of discretion as a public servant and as consideration for Suzanne H. Wooten's decision, vote, recommendation, and other exercise of official discretion in a judicial proceeding, to-wit: filing paperwork to run for Judge, proceeding and continuing with a campaign to unseat the incumbent elected Judge of the 380th Judicial District Court, and as Judge of the 380th Judicial District Court presiding over and issuing favorable rulings in cases in which the Defendant and David Cary are parties;

Money Laundering, in that the Defendant did then and there, pursuant to one scheme and continuing course of conduct, knowingly finance, invest, intend to finance and invest funds that the Defendant believed were intended to further the commission of criminal activity, to-wit: Bribery, and the aggregate value of said proceeds was $100,000 or more but less than $200,000;

Tampering with a Government Record, in that Suzanne H. Wooten did then and there, with intent to defraud and harm another, namely, the State of Texas, the Texas Ethics Commission, and the citizens of the State of Texas, intentionally and knowingly make, present, and use a governmental record with knowledge of its falsity, to-wit: prepared, swore, and affirmed a Personal Financial Statement that was submitted to the Texas Ethics Commission and did not list and report all gifts and loans, as required by Texas Government Code Sec. 572.023, omitting the Defendant, David Cary, and James Stephen Spencer under the heading "Gifts," and the heading "Personal Notes and Lease Agreements," when in truth and in fact said Defendant had received gifts and loans from the Defendant, David Cary, and James Stephen Spencer during the calendar year 2008;

and in furtherance of the conspiracy to commit said offenses the Defendant performed one or more overt acts, to-wit: initiated, authorized, and executed six monetary transactions composed of wire transfers and checks totaling $150,000 to James Stephen Spencer;

and the Grand Jury further presents in and to said Court at said term that:

COUNT TWO

STACY STINE CARY

hereinafter styled Defendant, on or about January 4, 2008, and before presentment of this indictment, in the County and State aforesaid, did then and there intentionally and knowingly offer, confer, and agree to confer a benefit, other than a political contribution as defined by Title 15, Election Code, or an expenditure made and reported in accordance with Chapter 305 of the Government Code, to-wit: $50,000, to Suzanne H. Wooten, a public servant, to-wit: a candidate

for the office of Judge of the 380th Judicial District Court and presiding Judge of the 380th Judicial District Court, as consideration for Suzanne H. Wooten's decision, opinion, recommendation, vote, and other exercise of discretion as a public servant and as consideration for Suzanne H. Wooten's decision, vote, recommendation, and other exercise of official discretion in a judicial proceeding, to-wit: filing paperwork to run for Judge, proceeding and continuing with a campaign to unseat the incumbent elected Judge of the 380th Judicial District Court, and as Judge of the 380th Judicial District Court presiding over and issuing favorable rulings in cases in which the Defendant and David Cary are parties;

and the Grand Jury further presents in and to said Court at said term that:

COUNT THREE

STACY STINE CARY

hereinafter styled Defendant, on or about January 30, 2008, and before presentment of this indictment, in the County and State aforesaid, did then and there intentionally and knowingly offer, confer, and agree to confer a benefit, other than a political contribution as defined by Title 15, Election Code, or an expenditure made and reported in accordance with Chapter 305 of the Government Code, to-wit: $25,000, to Suzanne H. Wooten, a public servant, to-wit: a candidate for the office of Judge of the 380th Judicial District Court and presiding Judge of the 380th Judicial District Court, as consideration for Suzanne H. Wooten's decision, opinion, recommendation, vote, and other exercise of discretion as a public servant and as consideration for Suzanne H. Wooten's decision, vote, recommendation, and other exercise of official discretion in a judicial proceeding, to-wit: filing paperwork to run for Judge, proceeding and

continuing with a campaign to unseat the incumbent elected Judge of the 380th Judicial District Court, and as Judge of the 380th Judicial District Court presiding over and issuing favorable rulings in cases in which the Defendant and David Cary are parties;

and the Grand Jury further presents in and to said Court at said term that:

COUNT FOUR

STACY STINE CARY

hereinafter styled Defendant, on or about February 14, 2008, and before presentment of this indictment, in the County and State aforesaid, did then and there intentionally and knowingly offer, confer, and agree to confer a benefit, other than a political contribution as defined by Title 15, Election Code, or an expenditure made and reported in accordance with Chapter 305 of the Government Code, to-wit: $25,000, to Suzanne H. Wooten, a public servant, to-wit: a candidate for the office of Judge of the 380th Judicial District Court and presiding Judge of the 380th Judicial District Court, as consideration for Suzanne H. Wooten's decision, opinion, recommendation, vote, and other exercise of discretion as a public servant and as consideration for Suzanne H. Wooten's decision, vote, recommendation, and other exercise of official discretion in a judicial proceeding, to-wit: filing paperwork to run for Judge, proceeding and continuing with a campaign to unseat the incumbent elected Judge of the 380th Judicial District Court, and as Judge of the 380th Judicial District Court presiding over and issuing favorable rulings in cases in which the Defendant and David Cary are parties;

and the Grand Jury further presents in and to said Court at said term that:

COUNT FIVE

STACY STINE CARY

hereinafter styled Defendant, on or about February 26, 2008, and before presentment of this indictment, in the County and State aforesaid, did then and there intentionally and knowingly offer, confer, and agree to confer a benefit, other than a political contribution as defined by Title 15, Election Code, or an expenditure made and reported in accordance with Chapter 305 of the Government Code, to-wit: $25,000, to Suzanne H. Wooten, a public servant, to-wit: a candidate for the office of Judge of the 380th Judicial District Court and presiding Judge of the 380th Judicial District Court, as consideration for Suzanne H. Wooten's decision, opinion, recommendation, vote, and other exercise of discretion as a public servant and as consideration for Suzanne H. Wooten's decision, vote, recommendation, and other exercise of official discretion in a judicial proceeding, to-wit: filing paperwork to run for Judge, proceeding and continuing with a campaign to unseat the incumbent elected Judge of the 380th Judicial District Court, and as Judge of the 380th Judicial District Court presiding over and issuing favorable rulings in cases in which the Defendant and David Cary are parties;

and the Grand Jury further presents in and to said Court at said term that:

COUNT SIX

STACY STINE CARY

hereinafter styled Defendant, on or about March 7, 2008, and before presentment of this indictment, in the County and State aforesaid, did then and there intentionally and knowingly

offer, confer, and agree to confer a benefit, other than a political contribution as defined by Title 15, Election Code, or an expenditure made and reported in accordance with Chapter 305 of the Government Code, to-wit: $10,000, to Suzanne H. Wooten, a public servant, to-wit: a candidate for the office of Judge of the 380th Judicial District Court and presiding Judge of the 380th Judicial District Court, as consideration for Suzanne H. Wooten's decision, opinion, recommendation, vote, and other exercise of discretion as a public servant and as consideration for Suzanne H. Wooten's decision, vote, recommendation, and other exercise of official discretion in a judicial proceeding, to-wit: filing paperwork to run for Judge, proceeding and continuing with a campaign to unseat the incumbent elected Judge of the 380th Judicial District Court, and as Judge of the 380th Judicial District Court presiding over and issuing favorable rulings in cases in which the Defendant and David Cary are parties;

and the Grand Jury further presents in and to said Court at said term that:

COUNT SEVEN

STACY STINE CARY

hereinafter styled Defendant, on or about March 14, 2008, and before presentment of this indictment, in the County and State aforesaid, did then and there intentionally and knowingly offer, confer, and agree to confer a benefit, other than a political contribution as defined by Title 15, Election Code, or an expenditure made and reported in accordance with Chapter 305 of the Government Code, to-wit: $15,000, to Suzanne H. Wooten, a public servant, to-wit: a candidate for the office of Judge of the 380th Judicial District Court and presiding Judge of the 380th Judicial District Court, as consideration for Suzanne H. Wooten's decision, opinion,

recommendation, vote, and other exercise of discretion as a public servant and as consideration for Suzanne H. Wooten's decision, vote, recommendation, and other exercise of official discretion in a judicial proceeding, to-wit: filing paperwork to run for Judge, proceeding and continuing with a campaign to unseat the incumbent elected Judge of the 380th Judicial District Court, and as Judge of the 380th Judicial District Court presiding over and issuing favorable rulings in cases in which the Defendant and David Cary are parties;

and the Grand Jury further presents in and to said Court at said term that:

COUNT EIGHT

STACY STINE CARY

hereinafter styled Defendant on or about and between January 4, 2008 and March 14, 2008, and before the presentment of this indictment, in the County and State aforesaid, did then and there, pursuant to one scheme and continuing course of conduct, knowingly finance, invest, and intend to finance and invest funds that the Defendant believed were intended to further the commission of criminal activity, to-wit: Bribery, and the aggregate value of said proceeds was $100,000 or more but less than $200,000;

TOLLING PARAGRAPH

And it is further presented in and to said Court that an indictment charging the offenses of Engaging in Organized Criminal Activity and Bribery is pending in a court of competent jurisdiction, to-wit: cause number 366-82212-10 in the 366th Judicial District Court, Collin

County, styled State of Texas v. Stacy Stine Cary, which was filed on October 14, 2010 and remains pending on the date this Grand Jury presents this indictment to said Court.

AGAINST THE PEACE AND DIGNITY OF THE STATE.

FOREMAN OF THE GRAND JURY

Witnesses:

Glenda Anderson

James P. Bailey

Kyle Basinger

John Beasley

Alma Benavides

Charity Borserine

Amy Cabala

Karen Callihan

David Cary

Stacy Stine Cary

Alexis Katz Caughey

George Henry Clements

Gavin Cone

FILED

2011 JUL 14 PM 8:34

PATRICIA GRIGGER
DISTRICT CLERK
COLLIN COUNTY, TEXAS
BY DEPUTY

Darlina Crowder

Daniel Dodd

Michael Finley

Kersten Alexander Hayes

William D. Johnson

Wendy Lee Kelly

Paul Dennis Key

David Marion Kleckner

Tim Lambert

Brian Loughmiller

James Mosser

Kimberlee Perkins

Michael Puhl

James Stephen Spencer

Kyle Swihart

Edward Lawson Valentine IV

Karl Voightsberger

Dissenting and Opinion Filed August 28, 2014

In The
Court of Appeals
Fifth District of Texas at Dallas

No. 05-12-01421-CR

STACY STINE CARY, Appellant
V.
THE STATE OF TEXAS, Appellee

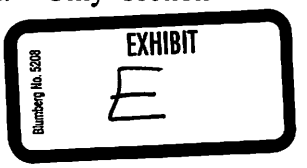
On Appeal from the 366th Judicial District Court
Collin County, Texas
Trial Court Cause No. 366-81637-2011

DISSENTING OPINION

Before Justices FitzGerald, Lang, and Fillmore
Dissenting Opinion by Justice FitzGerald

I dissent from the majority's opinion and judgment because the evidence is insufficient to support appellant's convictions.

With respect to the bribery charges at the heart of this case, this case is most unusual because the State's evidence is not merely insufficient—it affirmatively negates an essential element of the bribery charges and proves appellant not guilty. To convict appellant under the penal-code sections relied on by the State, sections 36.02(a)(1) and (a)(2), the State had to prove that certain transfers of funds by appellant were *not* political contributions. But the State's own theory of the case was that the transfers *were* political contributions—monies intended to be spent on a particular judicial candidate's campaign for office. Accordingly, the State could not properly charge appellant under sections 36.02(a)(1) and (a)(2), yet it did. Only section



36.02(a)(4) deals with political contributions of the sort involved in this case, and that section carries considerably more onerous requirements than the State was required to prove under sections 36.02(a)(1) and (a)(2) in this case.

I. BRIBERY

A. Applicable law

Appellant was convicted of six counts of bribery. The bribery statute provides as follows:

> (a) A person commits an offense if he intentionally or knowingly offers, confers, or agrees to confer on another, or solicits, accepts, or agrees to accept from another:
>
> > (1) any benefit as consideration for the recipient's decision, opinion, recommendation, vote, or other exercise of discretion as a public servant, party official, or voter;
> >
> > (2) any benefit as consideration for the recipient's decision, vote, recommendation, or other exercise of official discretion in a judicial or administrative proceeding;
> >
> > (3) any benefit as consideration for a violation of a duty imposed by law on a public servant or party official; or
> >
> > (4) any benefit that is a political contribution as defined by Title 15, Election Code, or that is an expenditure made and reported in accordance with Chapter 305, Government Code, if the benefit was offered, conferred, solicited, accepted, or agreed to pursuant to an express agreement to take or withhold a specific exercise of official discretion if such exercise of official discretion would not have been taken or withheld but for the benefit; notwithstanding any rule of evidence or jury instruction allowing factual inferences in the absence of certain evidence, direct evidence of the express agreement shall be required in any prosecution under this subdivision.
>
> (b) It is no defense to prosecution under this section that a person whom the actor sought to influence was not qualified to act in the desired way whether because he had not yet assumed office or he lacked jurisdiction or for any other reason.
>
> (c) It is no defense to prosecution under this section that the benefit is not offered or conferred or that the benefit is not solicited or accepted until after:
>
> > (1) the decision, opinion, recommendation, vote, or other exercise of discretion has occurred; or

(2) the public servant ceases to be a public servant.

(d) It is an *exception* to the application of Subdivisions (1), (2), and (3) of Subsection (a) that the benefit is a political contribution as defined by Title 15, Election Code, or an expenditure made and reported in accordance with Chapter 305, Government Code.

(e) An offense under this section is a felony of the second degree.[1]

The court of criminal appeals has explained that the phrase "as consideration for" means that the accused offered or conferred the benefit "as an inducement to an illegal contract, that of bribery."[2] When the allegation is that the accused actually conferred the benefit, the statute requires "a bilateral arrangement—in effect an illegal contract to exchange a benefit as consideration for the performance of an official function."[3] The *McCallum* court favorably quoted commentary from the Model Penal Code in which the drafters opined on the significance of the "consideration" requirement in modern bribery statutes: "This is the more conventional formula in bribery legislation, *and prevents application of the bribery sanction to situations where gifts are given in mere hope of influencing, without any agreement by the donee.*"[4] Even when the conduct made the basis of a charge is an offer instead of a completed transfer of a benefit, the statute requires purposeful conduct aimed at an illegal contract—that is, an offer of a benefit with the purpose of accomplishing an exchange of the benefit for an official action.[5]

The superseding indictment charged appellant with bribery in counts two through seven. Count two is illustrative of all six of those counts, and in that count the State alleged as follows:

---

[1] TEX. PENAL CODE ANN. § 36.02 (West 2011) (emphasis added).

[2] *McCallum v. State*, 686 S.W.2d 132, 135 (Tex. Crim. App. 1985).

[3] *Id.* at 136.

[4] *Id.* at 135 (quoting Model Penal Code, Reprint—Proposed Official Draft, § 240.1 (May 4, 1962)) (emphasis in original).

[5] *See Martinez v. State*, 696 S.W.2d 930, 933 (Tex. App.—Austin 1985, pet. ref'd).

COUNT TWO

STACY STINE CARY

hereinafter styled Defendant, on or about January 4, 2008, and before presentment of this indictment, in the County and State aforesaid, did then and there intentionally and knowingly offer, confer, and agree to confer a benefit, other than a political contribution as defined by Title 15, Election Code, or an expenditure made and reported in accordance with Chapter 305 of the Government Code, to-wit: $50,000, to Suzanne H. Wooten, a public servant, to-wit: a candidate for the office of Judge of the 380th Judicial District Court and presiding Judge of the 380th Judicial District Court, as consideration for Suzanne H. Wooten's decision, opinion, recommendation, vote, and other exercise of discretion as a public servant and as consideration for Suzanne H. Wooten's decision, vote, recommendation, and other exercise of official discretion in a judicial proceeding, to-wit: filing paperwork to run for Judge, proceeding and continuing with a campaign to unseat the incumbent elected Judge of the 380th Judicial District Court, and as Judge of the 380th Judicial District Court presiding over and issuing favorable rulings in cases in which the Defendant and David Cary are parties;

The jury was charged that appellant could be guilty of bribery either as a principal or as a party. Under the law of parties, a person is guilty of an offense if the offense is committed by another and the person is criminally responsible for the other person's conduct.[6] As relevant to this case, a person is criminally responsible for another's conduct if, acting with intent to promote or assist the commission of the offense, the person solicits, encourages, directs, aids, or attempts to aid the other person to commit the offense.[7] To convict appellant of bribery as a

[6] TEX. PENAL CODE ANN. § 7.01 (West 2011).

[7] *Id.* § 7.02(a)(2).

party, the State had to prove (1) that someone else committed bribery, and (2) that appellant committed a listed act with the intent to promote or assist the commission of bribery.[8]

Under the appropriate standard of review, we consider all of the evidence in the light most favorable to the jury's verdict and determine whether a rational fact finder could have found the essential elements of the crime beyond a reasonable doubt, based on the evidence and the reasonable inferences therefrom.[9] We must defer to the jury's credibility and weight determinations because the jury is the sole judge of the credibility of the witnesses and the weight to be given to their testimony.[10] It is not necessary for every fact to point directly and independently to appellant's guilt for us to uphold the conviction; the evidence is sufficient if the finding of guilt is warranted by the cumulative force of all the incriminating evidence.[11]

B. Summary of the evidence

In 2003, appellant's future husband David Cary filed for divorce from his previous wife Jennifer Cary in the 380th Judicial District Court of Collin County. Charles Sandoval was the presiding judge of that court. The parties were divorced in October 2004, but contentious child-custody issues arose repeatedly after the divorce decree was signed. Appellant concedes the evidence supports the propositions that her husband thought Judge Sandoval was a bad and unfair judge, and that her husband wanted Judge Sandoval to be defeated in 2008.

There was evidence that James Spencer met with the Carys in October 2007, and that they discussed several topics, including promotion of "family-centered advocacy, with an emphasis on parental rights." The State introduced into evidence a purported engagement letter from Spencer to appellant dated October 1, 2007, in which Spencer stated that he would provide

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[8] *See Beier v. State*, 687 S.W.2d 2, 3 (Tex. Crim. App. 1985).

[9] *Winfrey v. State*, 393 S.W.3d 763, 768 (Tex. Crim. App. 2013).

[10] *Id.*

[11] *Id.*

consulting services in four areas for $150 per hour up to a maximum budget of $250,000. The majority concludes that the jury could have inferred that Spencer actually created this document much later, perhaps as late as 2009, to create an explanation for appellant's large transfers of funds to Spencer in early 2008. The evidence of the services Spencer allegedly performed for appellant under the agreement was such that the jury could have concluded that Spencer's services were not worth the $150,000 that appellant paid Spencer in the first three months of 2008.

There was evidence that in December 2007, Spencer recruited Suzanne Wooten to run against Judge Sandoval in the 2008 Republican primary, which was to be held on March 4, 2008. Wooten asked Spencer to be her campaign manager. Wooten filed as a candidate in the Republican primary on January 2, 2008, and appointed attorney Alma Benavides as her campaign treasurer. Soon thereafter, appellant transferred sums of money to Spencer as follows:

January 4	$50,000
January 30	$25,000
February 14	$25,000
February 26	$25,000
March 7	$10,000
March 14	$15,000

Each of those transfers was the basis of one of the six bribery counts against appellant. Spencer testified that he used the money from appellant to pay for Wooten's campaign, but he also testified that it was his money to spend, that he thought Wooten would pay him back, and that Wooten did pay him back. As is chronicled in the majority opinion, appellant's payments to Spencer generally correlated with (1) the timing of certain telephone calls involving Spencer, the Carys' home telephone, David Cary's cell phone, Wooten, and campaign consultant Hank Clements, and (2) the timing of certain financial needs of the Wooten campaign. Given the evidence, the jury could reasonably infer that appellant made the payments when Spencer requested them, and that Spencer's requests were related to the financial needs of the Wooten

campaign rather than any particular work he had done for appellant under the alleged October 2007 consulting agreement. The evidence did not show that Spencer ever made his requests for money directly to appellant; the evidence showed only that, around the times of the payments, Spencer had communications involving either David Cary's cell phone or the Carys' home telephone.

The State adduced other circumstantial evidence. David Cary's co-worker Jay Valentine testified that he had heard David Cary say Wooten was going to change rulings made in David Cary's family-law matter and that Spencer had "fixed his situation with the judge, and was going to get his situation reversed." Valentine also testified that Spencer said he "owned" Wooten. But there was no evidence that appellant was present when any of these statements were made. There was also evidence that Spencer and David Cary were particularly interested in the United States Supreme Court's *Caperton*[12] decision about the ramifications of campaign contributions to judges. There was evidence that David Cary told Spencer when David Cary's ex-wife hired Wooten's campaign treasurer Benavides to represent her in their family-law case, that Spencer told Benavides and her law partner that they did not want to be involved in the case, and that Wooten recused herself after Benavides appeared in the case. And there was evidence that Wooten did not voluntarily recuse herself from appellant's lawsuit against Jennifer Cary and Israel Suster even though Benavides and her law partner appeared on Jennifer Cary's behalf in that matter.

C. Application of the law to the facts

The question presented is whether a rational jury, assessing all the evidence adduced at trial, could have found beyond a reasonable doubt that appellant herself committed bribery or

[12] *Caperton v. A.T. Massey Coal Co., Inc.*, 556 U.S. 868 (2009).

that she encouraged or helped her husband or Spencer commit bribery with the intent to promote or assist the commission of the evidence. In my view, the answer is no, for several reasons.

1. The "political contribution" exception

The following analysis falls in the category of unassigned error. In my judgment, there must be an exceptional reason for entertaining unassigned error. This is such a case.

The State's theory of its bribery case was that appellant paid Spencer the $150,000 to spend on Wooten's judicial campaign. Although sections 36.02(a)(1) and (a)(2) of the bribery statute required, among other things, that the money not be a political contribution, and the indictment so alleged, the State's evidence showed the money was a political contribution. Thus, in offering evidence to prove bribery under sections 36.02(a)(1) and (a)(2), the State simultaneously negated an essential element of its case—that the payments were not political contributions. In addition, such evidence demonstrated that the prosecution could properly be brought under section 36.02(a)(4), with its attendant requirement of direct evidence of an express agreement.

We raise error sua sponte under the unassigned-error doctrine if the record discloses an error that should be addressed in the interest of justice.[13] A serious concern is that the bench and bar will construe the majority opinion as approval of a prosecution brought under sections 36.02(a)(1) and (a)(2), notwithstanding that the foundation of the case is built upon political contributions. Another concern is that the State failed to prove a substantial and critical element of the offense. Not only did the State fail to prove an element, the State also proved appellant was not guilty of the crime charged. By disproving an element, that is, by proving the funds were political contributions, the State proved appellant did not commit and could not have committed the offenses charged and thus could not legally be convicted of a criminal offense

[13] *See Perez v. State*, 323 S.W.3d 298, 307 n.5 (Tex. App.—Amarillo 2010, pet. ref'd).

under sections 36.02(a)(1) and (a)(2). A conviction for conduct that does not constitute an offense under the law is an injustice we may not ignore. Bribery charges, as serious as they are, must be properly brought and proved under the appropriate statutory provisions.

The State, in seeking a conviction under sections 36.02(a)(1) and (a)(2), sidestepped the obligation imposed by section 36.02(a)(4) to produce direct evidence of an express agreement and ignored the clear application of section 36.02(a)(4). An affirmance gives the seal of approval to a completely misdirected and unsupported prosecution and conviction that are not supported by law. For the more detailed reasons that follow, this case demands unassigned-error review.

At the outset, let us closely examine the provisions of the bribery statute. Sections 36.02(a)(1) and (a)(2) basically proscribe conferring a benefit on a public servant as consideration for an exercise of discretion as a public servant, or official discretion in a judicial proceeding.

Section 36.02(d) creates an **exception** to sections 36.02(a)(1), (a)(2), and (a)(3) for certain political contributions and political expenditures. In other words, if the exception applies, a person may not be prosecuted under either provision because, as to the particular circumstances described, political contributions, the person has not committed a criminal offense. The State is obliged to "negate the existence of an exception in the accusation charging commission of the offense and prove beyond a reasonable doubt that the defendant or defendant's conduct does not fall within the exception."[14]

Accordingly, the superseding indictment specifically alleged that the benefits appellant offered to or conferred on Wooten were benefits "other than a political contribution as defined

[14] TEX. PENAL CODE ANN. § 2.02 (West 2011).

by Title 15, Election Code, or an expenditure made and reported in accordance with Chapter 305 of the Government Code."[15] The relevant provisions of the election code provide:

> (2) "Contribution" means a direct or indirect transfer of money, goods, services, or any other thing of value and includes an agreement made or other obligation incurred, whether legally enforceable or not, to make a transfer. The term includes a loan or extension of credit, other than those expressly excluded by this subdivision, and a guarantee of a loan or extension of credit, including a loan described by this subdivision. The term does not include:
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> > (A) a loan made in the due course of business by a corporation that is legally engaged in the business of lending money and that has conducted the business continuously for more than one year before the loan is made; or
> >
> > (B) an expenditure required to be reported under Section 305.006(b), Government Code.
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> (3) "Campaign contribution" means a contribution to a candidate or political committee that is offered or given with the intent that it be used in connection with a campaign for elective office or on a measure. Whether a contribution is made before, during, or after an election does not affect its status as a campaign contribution.
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> (4) "Officeholder contribution" means a contribution to an officeholder or political committee that is offered or given with the intent that it be used to defray expenses that:
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> > (A) are incurred by the officeholder in performing a duty or engaging in an activity in connection with the office; and
> >
> > (B) are not reimbursable with public money.
>
> (5) "Political contribution" means a campaign contribution or an officeholder contribution.
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> (6) "Expenditure" means a payment of money or any other thing of value and includes an agreement made or other obligation incurred, whether legally enforceable or not, to make a payment.
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> (7) "Campaign expenditure" means an expenditure made by any person in connection with a campaign for an elective office or on a measure. Whether an expenditure is made before, during, or after an election does not affect its status as a campaign expenditure.[16]

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[15] *See* TEX. PENAL CODE ANN. § 32.06(d).

[16] TEX. ELEC. CODE ANN. § 251.001(2)-(7) (West 2010).

The State contended and the State's evidence showed that the monies transferred in this case were political contributions—monies used to defray political expenditures incurred by Wooten during her election campaign. Indeed, that was the heart of the State's theory of the case. Thus, section 36.02(d) comes into play, making the provisions of the bribery statute under which appellant was prosecuted inapplicable. In other words, under the facts in this case, in order to prosecute appellant under subsections (a)(1) and (a)(2), the State had to allege and prove the monies were not political contributions. The State properly alleged this, but the State's proof showed the opposite, that the monies were political contributions used to pay political expenditures.

If appellant had been prosecuted under the proper provision, section 36.02(a)(4), the State would have had to allege and prove "*an express agreement.*" This provision also emphasized that "notwithstanding any rule of evidence or jury instruction allowing factual inferences in the absence of certain evidence, *direct evidence* of the express agreement shall be required in any prosecution under this subdivision."[17] The record is bare of such evidence.

If these convictions for bribery were permitted to stand, the distinction between a straightforward bribery scheme involving the improper payment of money for an exercise of discretion or the inappropriate extension of special treatment in a non-election context and the unique circumstances present in an election context—circumstances that are inherently sensitive because of the nature of the political campaign process—with its additional elements of proof necessary to secure a conviction, would be erased by judicial fiat.

The majority concludes that the jury was entitled to find that appellant's payments to Spencer were not political contributions because there was evidence that those payments exceeded the legal contribution limits and there was evidence that Wooten did not report them in

[17] *See* TEX. PENAL CODE ANN. § 36.02(a)(4) (emphasis added).

compliance with the election code. But the definitions of "contribution," "campaign contribution," and "political contribution" do not incorporate these other legal requirements. In other words, an illegal political contribution is still a political contribution.

The State adduced no evidence that appellant conferred any benefits on Wooten that were not political contributions as defined by Title 15 of the election code. Further, the State adduced evidence appellant was not guilty of the offense charged. Accordingly, the State failed to prove an essential element of its case under sections 36.02(a)(1), (a)(2), and (d); accordingly, we should reverse all six convictions for bribery and render judgments of acquittal.

2. Lack of consideration

The matter does not end there. Sections 36.02(a)(1), (a)(2), and (a)(4) all require a benefit to be conferred on someone (in this case, Wooten) in consideration for the recipient's decision, opinion, recommendation, vote or other exercise of discretion as a public servant. The first two methods delineated in the indictment, and the State's evidence related thereto, involved Wooten's "filing paperwork to run for Judge and proceeding and continuing with a campaign to unseat the incumbent elected Judge." Neither act is inherently criminal. Neither act constituted consideration. And neither constituted a decision or act of discretion by Wooten as a public servant. These acts constituted only steps in the process of Wooten's attaining public office, that is, attaining the position of judge. Encouraging a person to run for office, any office, in and of itself, is a lawful and acceptable civic act, as is becoming a candidate for public office. Encouraging a person to proceed and continue with a campaign to unseat an incumbent judge is likewise a lawful and acceptable civic act. It is common for citizens to engage in such acts on a regular basis, and both acts are considered public spirited.[18] The bribery statute and the

[18] This scenario is different from the fact pattern presented in cases like *Valencia v. State*, No. 13-02-020-CR, 2004 WL 1416239 (Tex. App.—Corpus Christi June 24, 2004, pet. ref'd) (mem. op., not designated for publication). *Valencia* was a routine bribery case in which a county commissioner offered to vote for two men to be appointed as county constables if they agreed to exercise their discretion to hire as

traditional idea of bribery involve the quid pro quo of paying a public servant so that the recipient will make decisions desired by the payor once the recipient assumes office.[19] In other words, bribery addresses graft and corruption. If acts such as encouraging a person to file or encouraging a person to keep running for office can be construed as the consideration to establish bribery, the statute will condemn legitimate civil and political activity and it will be left only to the State's imagination what an indictment could allege in terms of similar acts, such as seeking the signatures of enough voters to qualify to run, attending specific political events or gaining endorsements, and the like.[20] In summary, these first two alleged acts of filing paperwork to run and continuing to run constitute but steps in the political process, and neither constitutes the kinds of decisions or exercises of discretion contemplated by the statute as consideration.

Accordingly, we should render judgment acquitting appellant of all six counts of bribery.

3. Insufficiency of the evidence as to other elements

Even setting aside the State's failure to disprove the political-contribution exception and the lack-of-consideration defect described above, I agree with appellant that the evidence was insufficient to support her bribery convictions. The jury reasonably could have believed that appellant's consulting agreement with Spencer was merely a cover story to justify appellant's sending Spencer money to pay for Wooten's campaign expenses. The jury reasonably could have believed that appellant wanted to help elect Wooten because she thought Judge Sandoval was a bad judge and was treating appellant's husband unfairly in his ongoing litigation with his

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deputies two people designated by the county commissioner. *Id.* at *1. A paid job is clearly a benefit, unlike a decision to run for office or a decision to continue an already-started political campaign.

[19] *See United States v. Ciavarella*, 716 F.3d 705, 731 (3d Cir. 2013) ("A payment constitutes a bribe as long as the essential intent—a specific intent to give or receive something of value *in exchange* for an official act—exists.") (internal quotation and citation omitted), *cert. denied*, 134 S. Ct. 1491 (2014); *United States v. Wright*, 936 F. Supp. 2d 538, 545 (E.D. Pa. 2013) ("Bribery involves a 'quid pro quo—a specific intent to give or receive something of value in exchange for an official act.'") (citation omitted).

[20] *See Luzerne Cnty. Retirement Bd. v. Makowski*, 627 F. Supp. 2d 506, 561 (M.D. Pa. 2007) ("[A]ccepting a compaign contribution does not equal taking a bribe unless the payment is in exchange for an explicit promise to perform or not perform an official act.") (internal quotation and citation omitted).

ex-wife. The jury reasonably could have believed even that appellant expected and hoped that Wooten would make rulings favorable to appellant's husband in that litigation. But, in my view, there is insufficient evidence to permit a reasonable jury to conclude beyond a reasonable doubt that appellant conferred monetary benefits on Wooten as consideration for Wooten's joining the race, for her staying in the race, or for favorable judicial rulings in cases. Nor is there sufficient evidence to permit a reasonable jury to conclude beyond a reasonable doubt (1) that appellant's husband or Spencer conferred monetary benefits on Wooten as consideration for Wooten's joining or staying in the race, or for favorable rulings in cases or (2) that appellant intentionally promoted or assisted them in committing that offense.

Before delving into the evidence, I point out that the State makes no argument that appellant was guilty under the "offers" or the "agrees to confer" prongs of the bribery statute. Although the State alludes to these theories and cites general but inapplicable authority, it does not set forth any facts which would establish either theory, and I have found no such facts in the record evidence. The majority recites evidence at length, notes the allegations in the indictment of offer, agree to confer, and confer and distinguishes the *McCallum* decision on the basis that *McCallum* involved only conferring, not offering or agreeing to confer. The majority thus excuses the State from the necessity of establishing a bilateral agreement in this case because the State alleged offering and agreeing-to-confer theories, even though the evidence at most supports only the "conferring" theory. The majority ultimately upholds the bribery convictions based on the theories and allegations for offering, agreeing to confer, and conferring as they relate to proceeding and continuing to run and for favorable rulings, but not as to filing paperwork to run for judge. Like the State, the majority fails to identify any evidence supporting the convictions on the theory that appellant offered or agreed to confer benefits in exchange for Wooten's proceeding and continuing to run and for favorable rulings.

In my judgment, all six of the bribery counts rest only on actual conferral of benefits—specific payments of specific amounts of money. Accordingly, I will not discuss the submitted but unsupported theories that appellant illegally offered Wooten any benefits or illegally agreed to confer any benefits on Wooten.

a. Becoming a candidate

The State's first theory is that appellant bribed Wooten as consideration for Wooten to file the paperwork to become a candidate for the Republican nomination to be judge of the 380th Judicial District Court. The majority concludes it is unnecessary to address this theory but notes appellant's argument that paying or offering to pay someone to become a candidate is not bribery as the offense is defined in the statute. I would address appellant's argument and rule in her favor. Before Wooten filed her paperwork to run for the Republican nomination, Wooten was not a "public servant" as defined in the statute.[21] So even if appellant or someone in league with her paid or offered to pay Wooten money as consideration for Wooten's becoming a candidate, that conduct would not be bribery.

Moreover, I see no evidence that appellant did such a thing before Wooten filed her paperwork to become a candidate, nor that her husband or Spencer committed such conduct either with or without appellant's aid or encouragement. There is evidence that Spencer recruited Wooten to run against Judge Sandoval, but there is no evidence that he gave her any improper inducement to do so.

b. Remaining a candidate

The State's second theory is that appellant bribed Wooten as consideration for Wooten to proceed with or continue her campaign to become judge of the 380th Judicial District Court. The evidence supporting this theory fails on the essential element that the payments were made

[21] *See* TEX. PENAL CODE ANN. § 1.07(41) (West Supp. 2013) (defining "public servant").

"as consideration for" Wooten's decision to continue her campaign. Again, as *McCallum* makes clear, a benefit conferred in the mere hope of influencing the recipient is not bribery; the benefit must be conferred for the purpose of achieving an exchange for the recipient's decision or action.[22]

The critical defect in the evidence is the lack of any proof of the requisite intent and exchange—there is no evidence that appellant, David Cary, or Spencer conferred any benefit on Wooten as consideration for Wooten's decision(s) to stay in the primary race against Judge Sandoval. The State argues that it did not have to prove that Wooten ever actually considered dropping out of the race, and this is correct. But the State did have to prove that appellant or someone in league with appellant conferred benefits on Wooten as consideration for—that is, in exchange for—Wooten's staying in the race. Proving that the benefits were conferred, even under dubious circumstances, does not prove the specific intent required for bribery. In *McCallum*, there was evidence that McCallum, a litigant in a pending civil trial, encountered one of the jurors in a social setting after hours and bought champagne for her and her friends.[23] But the court of criminal appeals reversed McCallum's bribery conviction because there was no evidence that McCallum bought the champagne for the juror "in exchange for or in consideration of her vote as a juror."[24] The same is true in this case. The jury could infer that appellant wanted Judge Sandoval to lose and that she hoped Wooten would not abandon her campaign against him. But there is no evidence that appellant's transfers of money to Spencer or Spencer's

[22] *See generally McCallum*, 686 S.W.2d at 135–36, 139 (reversing bribery conviction for lack of evidence of "a bilateral agreement").

[23] *Id.* at 136–39.

[24] *Id.* at 139.

spending on Wooten's campaign were done in exchange for Wooten's continuance of her judicial campaign.[25]

Absent evidence that appellant, her husband, or Spencer conferred benefits on Wooten with the intent of accomplishing an exchange of benefits for Wooten's decision to stay in the race, any finding that appellant, her husband, or Spencer had the proscribed intent is based on speculation, not on evidence, and certainly not on proof beyond a reasonable doubt. There is no evidence to support appellant's bribery convictions under this theory of the case.

c. Judicial rulings

The State's last theory is that appellant bribed Wooten in consideration for Wooten's presiding over and issuing favorable rulings in cases in which appellant or her husband was a party. Again, the evidence falls short on the essential element of consideration—that appellant or someone in league with her conferred a benefit on Wooten *as consideration for* Wooten's decisions or other exercises of discretion in a judicial proceeding.

The evidence shows that David Cary was a party to a long-running family-law case pending in the 380th Judicial District Court, and the jury could infer that he thought Judge Sandoval was a bad and unfair judge. The evidence also shows that appellant intervened in her husband's case and also filed a separate lawsuit against Israel Suster that was transferred from another court to the 380th Judicial District Court in May 2008. And, as previously discussed, the evidence supports reasonable inferences that appellant transferred money to Spencer six times during the primary campaign and shortly thereafter at Spencer's requests (made either to appellant or to her husband), and that Spencer used that money to pay for Wooten's campaign

[25] As the majority notes, there was some evidence that Wooten had a line of credit. Neither side developed this evidence, nor did either side develop a detailed description of how much funding was necessary for Wooten to run a financially reasonable judicial campaign. The State argues that appellant's funds "were necessary for Wooten to run for and maintain her campaign for the seat of the 380th Judicial District Court," but there is absolutely no evidence that this is so. It is entirely possible that Wooten simply would have run a less-expensive campaign if appellant's money had not been available.

expenses. But the evidence does not permit an inference beyond a reasonable doubt that appellant paid the money, or Spencer spent the money with appellant's intentional aid or encouragement, as consideration for Wooten's judicial rulings or exercises of discretion in appellant's or David Cary's cases. The evidence is equally consistent with the proposition that appellant merely hoped or believed that Wooten would make better rulings than Judge Sandoval had. Under *McCallum*, such evidence is not sufficient to prove bribery.[26]

The after-the-fact evidence regarding Wooten's handling of the Carys' litigation does not aid the State's position. There was evidence that in early 2009 Spencer tried to dissuade Benavides from representing David Cary's ex-wife in her ongoing dispute with David Cary, and given the pattern of telephone calls around that time, the jury might reasonably infer that Spencer did so because he and David Cary did not want Wooten to recuse herself from David Cary's case. But this does not show that appellant, individually or through her husband or Spencer, had bribed Wooten a year earlier. It shows only that David Cary thought Wooten was preferable to other judges who might preside over his case if she recused herself. And Wooten did in fact recuse herself without making any rulings in David Cary's case. So Wooten's handling of David Cary's case constitutes no evidence that anyone had bribed her.

As to appellant's December 2007 lawsuit against Suster, there was evidence that in mid-2008 appellant fought to keep that lawsuit in County Court at Law No. 4 instead of having it transferred to the 380th Judicial District Court. There was also evidence that appellant did not press for certain discovery in her suit until Wooten had taken the bench in January 2009, that Wooten granted partial relief on a discovery motion filed by appellant, and that appellant later dismissed her suit. Again, this evidence does not show that appellant committed bribery, either personally or through her husband or Spencer. Wooten's granting of only part of the relief

[26] *See McCallum*, 686 S.W.2d at 134–35.

appellant sought does not tend to show that appellant or someone in league with her had previously bribed Wooten in exchange for favorable rulings. Nor does Wooten's failure to recuse herself in that matter indicate that appellant or someone in league with her had previously bribed Wooten.[27]

There was other evidence of conduct by appellant's husband and Spencer that put them in a bad light. There was evidence that in June 2009, Spencer and David Cary emailed each other about the Supreme Court's decision in *Caperton v. A.T. Massey Coal Co., Inc.*,[28] which imposed due-process limitations on elected judges' ability to hear cases involving their campaign contributors. Notably, *Caperton* was not a bribery case, and the Court did not question the subjective impartiality of the judge involved in that case.[29] The jury reasonably could have concluded that Spencer and David Cary were interested in the *Caperton* decision because appellant had supplied much of the money used in the Wooten campaign, and *Caperton* had the potential to require Wooten's recusal in future cases on constitutional grounds. But again, this does not show that appellant conferred benefits on Wooten in exchange for favorable rulings in her cases or David Cary's case. Nor does it show that Spencer or David Cary conferred benefits on Wooten in exchange for favorable rulings, with appellant's intentional aid or encouragement. Concern over *Caperton* is as consistent with a mere belief that Wooten would make favorable rulings as it is with prior acts of bribery.

The testimony of Jay Valentine also put Spencer and David Cary in a bad light. According to Valentine, David Cary said that he was trying to get Wooten elected, that Wooten

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[27] In my view, judicial rulings are rarely persuasive evidence of bribery. The State can always argue that rulings favorable to the person accused of bribery demonstrate a quid pro quo, and that rulings against that person are made only to cover the parties' tracks, even if those rulings are perfectly reasonable under the law and the facts. The State can argue that rulings that split the difference, like Wooten's ruling on appellant's motion, are sinister from both angles. Only a truly outlandish ruling that is utterly divorced from the facts and law of the case might constitute some evidence of bribery—and even then, the ruling might reflect only the judge's lack of common sense rather than bribery.

[28] 556 U.S. 868 (2009).

[29] *Id.* at 882.

was going to change the rulings in David Cary's family-law case, and that Spencer "fixed his situation with the judge and was going to get his situation reversed." Valentine also testified that Spencer told Valentine that Spencer was able to get Wooten elected and that "he owned her." There is no evidence that appellant was present when any of the statements described by Valentine were made.

In summary, I would hold that the evidence in this record is insufficient to prove that appellant, Spencer, or David Cary conferred a benefit on Wooten as consideration for favorable judicial rulings once Wooten took office. Specifically, there is no evidence that any of the three alleged conspirators reached an *agreement* to an illegal exchange with Wooten.

Moreover, even assuming there was sufficient evidence that Spencer committed bribery, for appellant to be guilty of his act, the State had to prove appellant solicited, encouraged, or aided in committing the offense "with intent to promote or assist the commission of the offense."[30] Although appellant's transfers of money to Spencer may have aided him in committing the offense, there is still no evidence that she acted with the intent of promoting or assisting the commission of the offense of bribery. There is no evidence that she knew of any understanding, express or tacit, between Spencer and Wooten that Wooten would make favorable judicial rulings in David Cary's litigation in exchange for the campaign expenditures. For all the evidence shows, appellant may have helped finance Wooten's campaign in the mere hope of influencing Wooten—or in the mere hope of defeating Judge Sandoval—without knowledge of any agreement Spencer may have struck with Wooten and without any intent to promote such an illegal agreement.

[30] TEX. PENAL CODE ANN. § 7.02(a)(2).

4. Conclusion

The State did not prove that the exception found in section 36.02(d) did not apply. Moreover, the State failed to prove beyond a reasonable doubt that appellant committed the elements of section 36.02(a)(1) or (a)(2), either individually or under the law of parties. I would reverse her bribery convictions and acquit her of those charges.

OTHER CRIMES

Appellant's conviction for money laundering stands or falls with her bribery convictions. Because I conclude that appellant's bribery convictions are supported by insufficient evidence, I would also reverse her conviction for money laundering.

Appellant's conviction for engaging in organized criminal activity stands on a slightly different footing. The State submitted three theories of this crime to the jury. One theory was that appellant participated in a combination to commit bribery and another was that appellant participated in a combination to commit money laundering in connection with bribery. Both of those theories fail because of the insufficiency of the evidence to support the commission of bribery at all. The third and final theory of engaging in organized criminal activity was that appellant participated in a combination to commit tampering with a governmental record, specifically Wooten's preparation and filing of personal financial statements that did not identify appellant, David Cary, or Spencer as people who had given Wooten loans or gifts during the relevant time period. This theory is unaddressed by the majority because it is unnecessary to the majority's disposition of the case. For present purposes, it is enough for me to state my conclusion that there is no evidence in the record that appellant intentionally participated in any combination for the purpose of having Wooten commit the offense of tampering with a government record.

I would reverse appellant's convictions for engaging in organized criminal activity and money laundering based on insufficiency of the evidence, and I would acquit her of those charges.

EXCLUSION OF EVIDENCE

I also disagree with the majority's conclusion that appellant failed to preserve her fourth issue on appeal. At trial, appellant offered into evidence some findings of fact and conclusions of law from a trial judge who presided over David Cary's family-law case after Wooten recused herself. The findings were favorable to David Cary and critical of his ex-wife. The trial judge excluded the evidence. On appeal, appellant argues that the evidence was relevant and admissible to show that David Cary did not need to bribe a trial judge to obtain favorable rulings, and thus that he lacked the intent to commit bribery. The majority refuses to consider the merits of appellant's argument, concluding that appellant presented a different argument for admissibility in the trial court. According to the majority, appellant's only argument for admissibility in the trial court was that the findings of fact and conclusions of law showed that David Cary's ex-wife was being "stubbornly litigious."

I would conclude that appellant adequately preserved error in the trial court. She did not argue precisely that the findings of fact and conclusions of law were admissible to show that David Cary did not need to bribe a judge in order to win his case. But she did argue, albeit not very clearly, that the findings of fact and conclusions of law showed that David Cary's position was right. The record shows the following argument by appellant's counsel:

> Counsel: Judge, we spent, I don't know, four days proving that David Cary, and by way of David Cary, that Stacy Cary must also be stubbornly litigious. Well, here's the proof that this stubborn litigiousness **was on the right side of right. They were doing the right thing**. This Jennifer Cary character is the one being stubbornly litigious.

The Court: I think in the end, all that's irrelevant. I think there's been evidence that both sides were litigious and was heated. I don't think who ultimately prevailed in the end on the custody case makes any difference.

Counsel: Judge, I think it goes to show she was the one bringing the heat, not us, **and that we're just trying to do the right thing. That's why we have courts.**

(Emphases added.) In other words, appellant's counsel argued to the trial judge that the findings of fact and conclusions of law were admissible to show that David Cary was in the right in his child-custody litigation against his ex-wife. Appellant has made the argument with greater detail on appeal, but there is nothing wrong with that; arguments made in the heat of trial need not satisfy standards of appellate eloquence in order to preserve error.

I would conclude that appellant's fourth issue was sufficiently preserved in the trial court. Given that I would reverse all of her convictions, I will refrain from addressing the merits of appellant's fourth issue.

CONCLUSION

I would reverse all of appellant's convictions. Because the majority does not, I respectfully dissent.

/Kerry P. FitzGerald/
KERRY P. FITZGERALD
JUSTICE

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IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. PD-0445-15

DAVID FREDERICK CARY, Appellant*

v.

THE STATE OF TEXAS

ON STATE'S PETITION FOR DISCRETIONARY REVIEW FROM THE FIFTH COURT OF APPEALS COLLIN COUNTY

HERVEY, J., delivered the opinion of the Court in which KELLER, P.J., JOHNSON, KEASLER, ALCALA, RICHARDSON, YEARY, and NEWELL, JJ., joined. MEYERS, J., did not participate.

OPINION

David Cary was convicted by a jury of six counts of bribery, one count of money laundering, and one count of engaging in organized criminal activity. His punishment was

*In their briefs, the parties identify David Cary as both "Appellee" and "Appellant." An "Appellant" is "a party taking an appeal to an appellate court." TEX. R. APP. P. 3.1. Thus, a party appealing a trial court's judgment is correctly styled as "Appellant." That designation does not change, however, even if the appellant prevails at the court of appeals, and the appellee files a petition for discretionary review. This is because a party does not "take an appeal" to this Court when it files a petition for discretionary review.

assessed at fourteen years' confinement on each count to run concurrently with one day credit. He appealed the judgments of conviction, and a unanimous panel of the court of appeals found that there was insufficient evidence to support his convictions, entering an acquittal on each count. *David Cary v. State*, 460 S.W.3d 731 (Tex. App.—Dallas 2015). The issue in this case is whether the court of appeals misapplied the standard for legal sufficiency.[2] We conclude that it did not, and we will affirm the judgment of the court of appeals.

COMPANION CASE

David's wife, Stacy Cary, was also convicted in a companion case on six counts of bribery, one count of money laundering, and one count of engaging in organized criminal activity. *Stacy Cary v. State*, No. 05-12-01421-CR, 2014 WL 4261233 (Tex. App.—Dallas Aug. 28, 2014) (mem. op.) (not designated for publication). The panel that decided her case affirmed her convictions. *Id.* Today, we reversed the judgment of that panel and rendered acquittals on each count because the evidence is insufficient to

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[2]We granted the State's petition for review on three grounds,

(1) The lower court erred because a reasonable juror could have found—as this jury actually found—that [David] did not intend the relevant payments to Spencer to constitute "political contributions," irrespective of how those payments were ultimately spent by Wooten.

(2) The evidence at trial was legally sufficient for a rational juror to find, beyond a reasonable doubt, all of the elements of bribery.

(3) The evidence at trial was legally sufficient to affirm [David]'s convictions for engaging in organized criminal activity and for money laundering.

support her convictions. *Stacy Cary*, No. PD-1341-14, slip op. 15–16 (Tex. Crim. App. Dec. 14, 2016). For the same reasons that we discussed in that opinion, we affirm the judgment of the court in this case rendering an acquittal on each count.[3]

BRIBERY

Law of Bribery

The bribery statute states in relevant part that,

> (a) A person commits an offense if he intentionally or knowingly offers, confers, or agrees to confer on another, or solicits, accepts, or agrees to accept from another:
>
> > (1) any benefit as consideration for the recipient's decision, opinion, recommendation, vote, or other exercise of discretion as a public servant, party official, or voter;
> >
> > (2) any benefit as consideration for the recipient's decision, vote, recommendation, or other exercise of official discretion in a judicial or administrative proceeding;
> >
> > (3) any benefit as consideration for a violation of a duty imposed by law on a public servant or party official; or
> >
> > (4) any benefit that is a political contribution as defined by Title 15, Election Code, or that is an expenditure made and reported in accordance with Chapter 305, Government Code, if the benefit was offered, conferred, solicited, accepted, or agreed to pursuant to an express agreement to take or withhold a specific exercise of official discretion if such exercise of official discretion would not have been taken or withheld but for the benefit; notwithstanding any rule of

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[3]Due to the voluminous amount of evidence in these cases, and the fact that the parties agree that the records in both cases are "nearly identical," like the court of appeals, we will not restate all of the facts and instead focus on only the facts necessary to decide this appeal. *David Cary*, 460 S.W.3d at 733 n.1. The panel of the Dallas Court of Appeals that disposed of Stacy's appeal recited the facts at length. *Stacy Cary*, 2014 WL 4261233, at *3–26.

> evidence or jury instruction allowing factual inferences in the absence of certain evidence, direct evidence of the express agreement shall be required in any prosecution under this subdivision.
>
> * * *
>
> (d) It is an exception to the application of Subdivisions (1), (2), and (3) of Subsection (a) that the benefit is a political contribution as defined by Title 15, Election Code, or an expenditure made and reported in accordance with Chapter 305, Government Code.
>
> (e) An offense under this section is a felony of the second degree.

TEX. PENAL CODE § 36.02 (footnote omitted). Relevant definitions from Title 15 of the Texas Election Code include,

> (2) "Contribution" means a direct or indirect transfer of money, goods, services, or any other thing of value and includes an agreement made or other obligation incurred, whether legally enforceable or not, to make a transfer. The term includes a loan or extension of credit, other than those expressly excluded by this subdivision, and a guarantee of a loan or extension of credit, including a loan described by this subdivision. The term does not include:
>
> (A) a loan made in the due course of business by a corporation that is legally engaged in the business of lending money and that has conducted the business continuously for more than one year before the loan is made; or
>
> (B) an expenditure required to be reported under Section 305.006(b), Government Code.
>
> (3) "Campaign contribution" means a contribution to a candidate or political committee that is offered or given with the intent that it be used in connection with a campaign for elective office or on a measure. Whether a contribution is made before, during, or after an election does not affect its status as a campaign contribution.

> (4) "Officeholder contribution" means a contribution to an officeholder or political committee that is offered or given with the intent that it be used to defray expenses that:
>
> (A) are incurred by the officeholder in performing a duty or engaging in an activity in connection with the office; and
>
> (B) are not reimbursable with public money.
>
> (5) "Political contribution" means a campaign contribution or an officeholder contribution.
>
> (6) "Expenditure" means a payment of money or any other thing of value and includes an agreement made or other obligation incurred, whether legally enforceable or not, to make a payment.
>
> (7) "Campaign expenditure" means an expenditure made by any person in connection with a campaign for an elective office or on a measure. Whether an expenditure is made before, during, or after an election does not affect its status as a campaign expenditure

TEX. ELEC. CODE § 251.001(2)–(7).

Court of Appeals

The court of appeals held that the evidence is insufficient to support David's bribery convictions because the State failed to prove that the benefits offered to Wooten were something other than political contributions. *David Cary*, 460 S.W.3d at 738; *see* TEX. PENAL CODE §§ 2.02(b) (statutory exceptions must be negated by the State beyond a reasonable doubt), 36.02(a)(1)–(2), (d) (bribery and political-contribution exception). In doing so, the court rejected the State's argument that a jury could have inferred that the contributions were not political ones because David intended to "bribe" Wooten and "engaged in several deceptive practices to prevent the funds from being traced to him."

David Cary, 460 S.W.3d at 737. It explained that a "political contribution" is a contribution given with the intent that it be used in a campaign for elected office and that, in this case, the evidence showed just that—David offered Wooten benefits through Spencer to fund Wooten's campaign to unseat Sandoval. *Id.*; *see* TEX. ELEC. CODE § 251.001(5). It also pointed out that, if the State fails to negate the political-contribution exception, David's intent to "bribe" and his deceptive acts to hide the source of the money are irrelevant. *David Cary*, 460 S.W.3d at 737.

State's Arguments

The State first argues that the court of appeals erred in its legal-sufficiency analysis. It also contends that the lower court mistakenly focused on the ultimate use of Stacy's money in Wooten's campaign instead of looking to the subjective intent at the time the contribution was made, as required by the Election Code. According to the State, this latter analytical error was the "fundamental misconception upon which the lower court foundered." State's Brief on the Merits at 26. Finally, the State asserts that the court of appeals failed to properly apply the standard for legal sufficiency because it did not view the evidence in the light most favorable to David's convictions. Instead, the State contends that the court's analysis was more akin to a factual-sufficiency review and that it harkened back to our discarded pre-*Geesa* standard, requiring the State to negate every reasonable hypothesis other than that establishing the guilt of the accused. *Brooks v. State*, 323 S.W.3d 893 (Tex. Crim. App. 2010) (plurality op.); *Geesa v. State*, 820 S.W.2d

154, 157 (Tex. Crim. App. 1991) (abrogating the alternative-reasonable-hypothesis construct).

Legal Sufficiency

When determining whether the evidence is sufficient to support a criminal conviction, the only standard an appellate court should apply is the *Jackson v. Virginia* test for legal sufficiency. *Brooks*, 323 S.W.3d at 895 (plurality op.). Under that standard, the State must prove each essential element of the offense beyond a reasonable doubt. TEX. PENAL CODE §§ 1.07(22) (elements of an offense include negating any statutory exception to that offense). This requirement, however, does not obligate the State to disprove every innocent explanation of the evidence before a jury can find a defendant guilty. *See Tate v. State*, No. PD-0730-15, 2016 WL 5113495, at *6 (Tex. Crim. App. Sept. 21, 2016). "[T]he relevant question is whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt." *Jackson*, 443 U.S. 307, 319 (1979). In this analysis, the arguments of the parties are of no consequence because arguments are not evidence. *Hutch v. State*, 922 S.W.2d 166, 173 (Tex. Crim. App. 1996) (plurality op.) ("It is axiomatic that jury arguments are not evidence"). To the extent that a reviewing court relies on such in a legal-sufficiency analysis, it does so in error.

The evidence is viewed in the light most favorable to the verdict because it is "the responsibility of the trier of fact fairly to resolve conflicts in the testimony, to weigh the

evidence, and to draw reasonable inferences from basic facts to ultimate facts." *Jackson*, 443 U.S. at 319. This standard "impinges upon 'jury' discretion only to the extent necessary to guarantee the fundamental protection of due process of law," and it prevents the reviewing court from making its own subjective determination of the defendant's guilt. *Id.* Although an appellate court cannot act as a thirteenth juror and make its own assessment of the evidence, it does act as a safeguard to ensure that the factfinder's verdict is a rational one that is based on more than a "mere modicum" of evidence. *Moreno v. State*, 755 S.W.2d 866, 867 (Tex. Crim. App. 1988). Theorizing or guessing as to the meaning of the evidence is never adequate to uphold a conviction because it is insufficiently based on the evidence to support a belief beyond a reasonable doubt. *Hooper v. State*, 214 S.W.3d 9, 15–16 (Tex. Crim. App. 2007). But the factfinder is allowed to draw any reasonable inference that is supported by the evidence. *Jackson*, 443 U.S. at 319. If the record supports reasonable, but conflicting, inferences, we presume that the factfinder resolved the conflicts in favor of the conviction. *Id.* at 326.

Analysis

According to the court of appeals, "the State's evidence proved that the only benefits to Wooten were the transfers from Stacy Cary to Spencer, which the State argued were payments made to fund her campaign." *David Cary*, 460 S.W.3d at 738. This seems to suggest that the court did in fact rely on the State's trial arguments and the ultimate use of the $150,000, instead of focusing on the evidence actually adduced at trial and David's

intent at the time the contribution was made. *Id.* To the extent that the court of appeals relied on the arguments of the parties and how Stacy's money was actually used in Wooten's campaign, we disavow its analysis.

The State alleged that David intentionally offered Wooten a benefit other than a political contribution as consideration for Wooten's decisions to enter the race against Sandoval, to continue her campaign, and to issue rulings favorable to the Carys once elected. TEX. PENAL CODE § 36.02. To negate the political-contribution exception, the State had to show that David had no intent for Stacy's money to be used in Wooten's campaign. According to the State, it met that burden because a rational jury could have reasonably inferred that David intended for the payments to Spencer to "be used to obtain, by any means necessary, (1) a person who would challenge the incumbent judge of the 380th Judicial District Court, despite the odds stacked against succeeding in such a challenge, and/or (2) a judge who would rule favorably in [David]'s custody and visitation proceedings, and/or rule in favor of his spouse Stacy." The problem with this argument, however, is that the State charged David with bribing Wooten specifically, and the jury was instructed that it could convict David only if it believed beyond a reasonable doubt that he intentionally offered money to Wooten as consideration for *her* exercise of official discretion as a public servant. *Id.* Thus, even if a jury believed the theory set out by the State above, the State has not proven its case.

Although the State is required to disprove exceptions to an offense beyond a

reasonable doubt, and the allegations made here required the State to negate the political-contribution exception, that does not amount to forcing the State to disprove every possible innocent explanation of the evidence. The State also contends that the record supports conflicting inferences as to whether the money offered to Wooten was a political contribution and that, because appellate courts resolve conflicting inferences in favor of the conviction, the lower court erred when it substituted its judgment for that of the jury. It is true that appellate courts resolve conflicting inferences in favor of the conviction, but we conclude as the court of appeals did that the record in this case does not support conflicting inferences. While a rational jury could have inferred that David offered money to Wooten as consideration for her decisions to enter the race, to continue her campaign, and to render rulings favorable to the Carys, no rational jury could have also believed that David bribed Wooten to get elected to give the Carys favorable treatment, but that he had no intention that Stacy's $150,000 would be used in Wooten's campaign. To accomplish his goals, Wooten would have to be elected.

We hold that the evidence is insufficient to prove that David committed bribery as charged because the State failed to negate the political-contribution exception.

OTHER COUNTS

David was also convicted of one count of money laundering and one count of engaging in organized criminal activity. The court of appeals reversed both of those convictions for insufficient evidence. *David Cary*, 460 S.W.3d at 739, 741. In a single

sentence, the State argues that, "if this Court reverses the lower court's determination that the evidence was legally sufficient to support [David]'s bribery conviction[s], then the Court should necessarily reverse the lower court on that basis, too." State's Brief on the Merits at 46.

Money Laundering

The State alleged that David knowingly financed, invested, or intended to finance and invest funds that he believed were intended to further the commission of criminal activity. TEX. PENAL CODE § 34.02(a)(4), (f). The only predicate offense charged was bribery. Yet, because we have already found that the evidence is insufficient to sustain David's bribery convictions, there cannot be sufficient evidence to support the money-laundering conviction.

Engaging in Organized Criminal Activity

The State further alleged that David engaged in organized criminal activity when he, in combination with Wooten, Stacy, and Spencer, conspired to commit and did commit the offenses of bribery, money laundering, or tampering with a government document. Because the evidence is insufficient to support David's convictions for bribery and money laundering, his conviction for engaging in organized criminal activity can be upheld only if he conspired to tamper with a governmental document. The State, however, does not challenge the court of appeals's holding on that basis, so we do not

address it now.[4] *Id.* at 740–41 (reversing conviction for lack of evidence to support any predicate offense).

CONCLUSION

Because we find that the State's challenges to the holdings of the court of appeals are without merit, we affirm the judgment of the court of appeals.

Delivered: December 14, 2016

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[4]We did, however, address the issue in Stacy's appeal and concluded that there was insufficient evidence to prove that she conspired to tamper with a government document. *Stacy Cary*, slip op. at 17–18.

IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. PD-1341-14

STACY STINE CARY, Appellant

v.

THE STATE OF TEXAS

ON APPELLANT'S PETITION FOR DISCRETIONARY REVIEW FROM THE FIFTH COURT OF APPEALS COLLIN COUNTY

HERVEY, J., delivered the opinion of the Court in which KELLER, P.J., JOHNSON, KEASLER, ALCALA, RICHARDSON, YEARY, and NEWELL, JJ., joined. MEYERS, J., did not participate.

OPINION

Appellant, Stacy Stine Cary, was convicted by a jury of six counts of bribery, one count of money laundering, and one count of engaging in organized criminal activity. Her sentence was probated, but she was ordered to serve 30 days' confinement as a condition of her probation. A split panel of the Dallas Court of Appeals affirmed her convictions. *Cary v. State*, No. 05-12-01421-CR, 2014 WL 4261233 (Tex. App.—Dallas Aug. 28,

2014) (not designated for publication). In four grounds, she alleges that the evidence was legally insufficient to support her convictions, and in a fifth ground she argues that the trial court reversibly erred when it excluded certain evidence.[1] Because we sustain her first and fourth grounds, we will reverse and render an acquittal on each count and need not reach the other three grounds for review.

BACKGROUND[2]

This case involves a number of actors: David Cary (David), Jennifer Cary (Jennifer), Stacy Stine Cary (Stacy), Judge Charles Sandoval (Sandoval), James Spencer (Spencer), and Suzanne Wooten (Wooten). David was married to Jennifer, and they had two children. In 2003, David filed for divorce. Judge Sandoval of the 380th District Court

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[1]The grounds upon which we granted review state,

> (1) Whether the State's case affirmatively proved that the alleged bribes were "political contributions," which would mean that Appellant was not guilty of bribery as charged?
>
> (2) Whether the evidence was sufficient to show the requisite consideration to support the bribery convictions?
>
> (3) Whether the evidence was sufficient to show that Appellant had the requisite intent to commit bribery?
>
> (4) Whether the evidence was sufficient to support [Appellant]'s conviction for engaging in organized criminal activity and money laundering?
>
> (5) Whether the trial court committed reversible error by excluding evidence, for which error was properly preserved, that showed there was no need to bribe a judge to obtain favorable rulings?

[2]We discuss only the facts relevant to the disposition of this appeal. However, the court of appeals discussed the facts of the case at length. *Cary*, 2014 WL 4261233, at *1–26.

of Collin County presided over that litigation. After the final divorce decree was signed in 2004, protracted child custody litigation ensued. Sandoval also presided over those proceedings. In early December 2006, David married Stacy, and later that month, Sandoval removed David as joint managing conservator of his children with Jennifer.

At some point in 2007, David and Stacy sought to change the law through the legislature to remedy David's family law woes and to help other parents. In trying to accomplish that goal, David and Stacy (the Carys)[3] were introduced to Spencer. Like the Carys, Spencer had an interest in family law, and when the three met in person for the first time, Stacy allegedly hired Spencer to perform consulting work for her. Between January 4, 2008 and March 14, 2008, Stacy transferred $150,000 to Spencer. During the time period in which Stacy was transferring money to Spencer, Spencer recruited Wooten to run against Sandoval. The State asserts that the consulting agreement between Stacy and Spencer was a sham and that the $150,000 was really a bribe, or an offer of a bribe, from Stacy to Wooten (made indirectly through Spencer) to induce Wooten to run against Sandoval so she could issue rulings favorable to the Carys once elected.

Stacy was convicted on all counts, and she appealed. After losing her appeal, she filed a petition for discretionary review, which we granted.

LAW OF BRIBERY

Stacy was charged with bribery under Section 36.02(a)(1) and (a)(2) of the Penal

---

[3]Throughout the opinion, "the Carys," refers to David and Stacy. We identify Jennifer Cary by only her first name.

Code. A person charged under those provisions is not guilty of bribery if the benefit offered was a political contribution. TEX. PENAL CODE § 36.02(d). Before this Court, Stacy now claims that the political-contribution exception applies to her because the evidence shows that the money she offered was intended to be used in connection with a campaign for public office. The bribery statute states in relevant part that,

> (a) A person commits an offense if he intentionally or knowingly offers, confers, or agrees to confer on another, or solicits, accepts, or agrees to accept from another:
>
> > (1) any benefit as consideration for the recipient's decision, opinion, recommendation, vote, or other exercise of discretion as a public servant, party official, or voter;
> >
> > (2) any benefit as consideration for the recipient's decision, vote, recommendation, or other exercise of official discretion in a judicial or administrative proceeding;
> >
> > (3) any benefit as consideration for a violation of a duty imposed by law on a public servant or party official; or
> >
> > (4) any benefit that is a political contribution as defined by Title 15, Election Code, or that is an expenditure made and reported in accordance with Chapter 305, Government Code, if the benefit was offered, conferred, solicited, accepted, or agreed to pursuant to an express agreement to take or withhold a specific exercise of official discretion if such exercise of official discretion would not have been taken or withheld but for the benefit; notwithstanding any rule of evidence or jury instruction allowing factual inferences in the absence of certain evidence, direct evidence of the express agreement shall be required in any prosecution under this subdivision.
>
> (b) It is no defense to prosecution under this section that a person whom the actor sought to influence was not qualified to act in the desired way whether because he had not yet assumed office or he lacked jurisdiction or for any

other reason.

* * *

> (d) It is an exception to the application of Subdivisions (1), (2), and (3) of Subsection (a) that the benefit is a political contribution as defined by Title 15, Election Code, or an expenditure made and reported in accordance with Chapter 305, Government Code.
>
> (e) An offense under this section is a felony of the second degree.

Id. § 36.02 (internal footnote omitted).

COGNIZABILITY

Before we can reach the merits of Stacy's argument, however, we must determine whether the issue is properly before us. For the reasons that follow, we conclude that it is.

Unassigned Error

Stacy did not argue in the court of appeals that her bribery convictions should be reversed because the State failed to negate the political-contribution exception. Writing in dissent, Justice Fitzgerald asserted that the majority should nonetheless address the issue in the interest of justice. *Cary*, 2014 WL 4261233, at *41 (Fitzgerald, J., dissenting). The majority disagreed, but it nonetheless responded to the merits of Fitzgerald's reasoning and rejected it. *Id.* at *34 (majority opinion).

In her petition for discretionary review and brief on the merits, Stacy argues that the "political contribution" issue is properly before us. She concedes that she did not raise it at the court of appeals, but according to her, in addressing the merits of the issue, the court of appeals effectively exercised its power to reach the unassigned error. The State

did not file a response to Stacy's petition for discretionary review, and it does not reference unassigned error in its brief on the merits.

We agree with Stacy that the court of appeals reached the unassigned error when it analyzed the "political contribution" exception. Thus, the issue is properly before us. *Sanchez v. State*, 209 S.W.3d 117, 120–21 (Tex. Crim. App. 2006).

Invited Error

Next, the State argues that Stacy should be estopped under the invited-error doctrine from arguing on appeal that the wire transfers were political contributions because her trial theory was that the wire transfers were compensation for consulting work. For support, it cites our opinion in *Prystash v. State*, 3 S.W.3d 522, 531 (Tex. Crim. App. 1999).

In *Prystash*, we explained that "the law of invited error estops a party from making an appellate error of an action it induced." *Id.* Here, however, no action was induced by Stacy. Thus, the doctrine is inapplicable. And, at any rate, in a sufficiency analysis, the only issue is whether a rational jury could have found each essential element of the offense beyond a reasonable doubt. *Jackson v. Virginia*, 443 U.S. 307, 318–19 (1979). The arguments of the parties and their trial theories are not evidence, and as a result, they are of no consequence in a sufficiency analysis. *Ex parte Bryant*, 448 S.W.3d 29, 41 n.15 (Tex. Crim. App. 2014) (arguments are not evidence); *see also Ramsey v. State*, 473 S.W.3d 805, 808 (Tex. Crim. App. 2015) (in conducting a legal-sufficiency analysis, the

reviewing court examines only the admitted evidence).

CONSTRUCTION OF THE POLITICAL-CONTRIBUTION EXCEPTION

Stacy argues that Section 36.02(d) of the Texas Penal Code excludes by its plain language all political contributions from the offense of bribery as charged in this case, including those that exceed the maximum allowable amount under the law. Justice Fitzgerald, who dissented, agrees with Stacy. *Cary*, 2014 WL 4261233, at *43 (Fitzgerald, J., dissenting). The majority of the court of appeals, however, concluded that the statutory definition of "political contribution" is limited to *legal* political contributions[4] (i.e., those that do not exceed the maximum amount in a judicial race), although it did not explain its reasoning.[5] *Cary*, 2014 WL 4261233, at *34 (majority opinion) ("[A] rational jury could have reasonably found that Stacy's payments were not political contributions as defined by the statute."). The State does not address this particular argument, but it is relevant to the disposition of this appeal, so we address it now.

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[4]During the relevant time period, the maximum contribution by an individual in a judicial campaign in Collin County was $2,500. TEX. ELEC. CODE § 253.155(b).

[5]The court of appeals treated the phrase "political contribution" in two contradictory ways. In its discussion of the jury charge, the court explained that the definition used by the trial court was proper because it "essentially tracks the language of the applicable statute." *Cary*, 2014 WL 4261233, at *34 (citing TEX. ELEC. CODE § 251.001). However, when discussing in the very next paragraph why the jury could have found that the wire transfers were not political contributions, the court applied a much more narrow definition, grafting on extra requirements beyond the statutory definition.

Applicable Law

Statutory construction is a question of law, which we review de novo. *Harris v. State*, 359 S.W.3d 625, 629 (Tex. Crim. App. 2011). In analyzing the language of a statute, we "seek to effectuate the 'collective' intent or purpose of the legislators who enacted the legislation." *Id.* (quoting *Boykin v. State*, 818 S.W.2d 782, 785 (Tex. Crim. App. 1991)). To do so, we first look to the text of the statute and read words and phrases contained therein in context and construe them according to normal rules of grammar and usage. *Id.* (citing *Lopez v. State*, 253 S.W.3d 680, 685 (Tex. Crim. App. 2008)). We also "presume that every word in a statute has been used for a purpose and that each word, phrase, clause, and sentence should be given effect if reasonably possible." *Id.* (quoting *State v. Hardy*, 963 S.W.2d 516, 520 (Tex. Crim. App. 1997)). If the language of the statute is plain, we will effectuate that plain language without resort to extra-textual sources. However, if an interpretation of the language would lead to absurd results or the language is ambiguous, then we may review extra-textual resources to discern the collective intent of the legislators that voted to pass the bill. *Id.* (citing *Boykin*, 818 S.W.2d at 785).

Analysis

Stacy was charged with bribery under Section 36.02(a)(1) and (a)(2) of the Penal Code. Under those provisions, an actor has not committed bribery if the offered benefit (i.e., money) is a political contribution as defined by Title 15 of the Election Code. TEX.

PENAL CODE *Id.* § 36.02(d). The relevant statutory provision provides that,

> It is an exception to the application of Subdivisions (1), (2), and (3) of Subsection (a) that the benefit is a political contribution as defined by Title 15, Election Code, or an expenditure made and reported in accordance with Chapter 305, Government Code.

Id. The pertinent question here is what is meant by the phrase, "as defined by Title 15, the Election Code." We conclude that the language is plain, that it refers specifically to Section 251.001 of the Texas Election Code defining "political contribution," and that the court of appeals erred when it concluded otherwise.

Title 15 is divided into chapters which are in turn divided into statutory sections. The first chapter is titled, "General Provisions." Of the nine sections in that chapter, eight reference Title 15 in general, including the definitions section. That provision defines twenty terms used "in this title," and it specifically defines "political contribution." TEX. ELEC. CODE § 251.001. There is no other statutory provision within Title 15 that defines "political contribution."

The court of appeals seemed to believe that the definition of "political contribution" was modified *sub silentio* by Section 253.155 of the Election Code, which sets out contribution limits in a judicial campaign. *Id.* § 253.155; *Cary*, 2014 WL 4261233, at *34. We disagree. The statutory section relied on by the court of appeals deals with restrictions on contributions and expenditures; it does not, however, purport to change the definition of a political contribution. And, unlike the general-provisions chapter, there is no indication that Chapter 253 applies to all of Title 15. By its own

language, the provision categorizes political contributions only into those that are lawful for a candidate or officeholder to accept and those that are not. *Id.*

After examining the relevant statutes, we believe the better interpretation of Section 36.02(d) is that, in referring to a "political contribution" "as defined by Title 15, Election Code," the statute refers only to the definition of "political contribution" in Section 251.001 of Title 15 of the Election Code. Based on this, we also conclude that the political-contribution exception in Section 36.02(d) excludes all political contributions without regard to whether they are within the allowable legal limits. With this background, we now turn to the question of whether the State met its burden to negate the political-contribution exception beyond a reasonable doubt.

MERITS OF POLITICAL-CONTRIBUTION EXCEPTION

Applicable Law

Sufficiency of the Evidence

The State must prove each essential element of an offense beyond a reasonable doubt. *Jackson*, 443 U.S. at 318–19. But it need not exclude every conceivable alternative to a defendant's guilt. *Ramsey*, 473 S.W.3d at 811. When reviewing the sufficiency of the evidence, we consider all of the evidence in the light most favorable to the verdict to determine whether, based on that evidence and the reasonable inferences therefrom, a jury was rationally justified in finding guilt beyond a reasonable doubt. *Jackson*, 443 U.S. at 318–19.

Viewing the evidence "in the light most favorable to the verdict" means that the reviewing court must defer to the credibility and weight determinations of the jury because the jury is the sole judge of the witnesses' credibility and the weight to be given to their testimony. *Jackson*, 443 U.S. at 319. But notwithstanding a court's deference to the jury's credibility and weight determinations, the jury's finding of guilt must be a rational one in light of *all* of the evidence presented at trial. *Moff v. State*, 131 S.W.3d 485, 489 (Tex. Crim. App. 2004). Juries are allowed to draw any reasonable inference from the facts so long as each inference is supported by the evidence presented at trial. *Jackson*, 443 U.S. at 319; *see Hooper v. State*, 214 S.W.3d 9, 16–17 (Tex. Crim. App. 2007). Speculation about the meaning of the facts or evidence, however, is never sufficient to uphold a conviction. *Hooper*, 214 S.W.3d at 16. When the record supports conflicting, reasonable inferences, we presume that the jury resolved the conflicts in favor of the verdict, and we defer to that determination. *Jackson*, 443 U.S. at 326.

The Law of Parties

Parties to an offense may be charged with commission of a crime as if they committed it themselves. TEX. PENAL CODE § 7.01(a) & (b). To prove party liability, the State must show that the offense was committed and that the accused acted "with intent to promote or assist commission of the offense" by soliciting, encouraging, directing, aiding, or attempting to aid the primary actor. *Id.* § 7.02(a)(2); *Beier v. State*, 687 S.W.2d 2, 3 (Tex. Crim. App. 1985). Without evidence of intentional participation by the accused, an

accused may not be convicted under the law of parties. *Acy v. State*, 618 S.W.2d 362 (Tex. Crim. App. 1981). The necessary specific intent can be proven through circumstantial evidence, and we may rely on events that took place before, during, or after the commission of the offense. *Wygal v. State*, 555 S.W.2d 465 (Tex. Crim. App. 1977).

Bribery

In the bribery statute, "benefit" is defined as anything reasonably regarded as pecuniary gain or pecuniary advantage. TEX. PENAL CODE § 36.01(3). As we have discussed, a notable exception to the definition of "benefit" under sections 36.02(a)(1) and (a)(2)—the subdivisions under which Stacy was charged—are political contributions. *Id.* § 36.02(d). As an exception to the offense, the State must prove beyond a reasonable doubt that any benefits that Stacy offered to Wooten were not political contributions. *Id.* § 2.02. A "contribution" is a direct or indirect transfer of money, goods, or services, or anything of value,[6] and a contribution is a political one if it can be characterized as a campaign or officeholder contribution. TEX. ELEC. CODE § 251.001(5). A "campaign contribution" is one that is given or offered "with the intent that it be used in connection with a campaign for elective office or on a measure." *Id.* § 251.001(3).

Analysis

The State charged Stacy with intentionally and knowingly offering, conferring, or agreeing to confer a benefit, other than a political contribution as defined by Title 15 of

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[6]TEX. ELEC. CODE § 251.001(2).

the Election Code, as consideration for Wooten filing paperwork to become a candidate, for continuing her campaign to unseat Sandoval, and for rulings favorable to the Carys once elected. Those allegations are based on six transfers of money totaling $150,000 between January 4, 2008 and March 14, 2008.

Because of how the State charged this case,[7] its burden of proof became a balancing act. If Stacy gave the money to Spencer with the intent of compensating him for consulting services or only in the hope that he would get *someone* to run against Sandoval, the State has not met its burden of proof because Stacy did not offer to confer a benefit on Wooten. Similarly, if Stacy offered money to Wooten to finance her campaign in exchange for Wooten entering the race, for continuing the race, and for favorable rulings once elected, Stacy has not committed a crime as charged because the money she offered constituted political contributions. TEX. PENAL CODE § 36.02(d); TEX. ELEC.

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[7]Unlike Section 36.02(a)(1) and (a)(2), under which Stacy was charged, Section 36.02(a)(4) of the Penal Code defines a bribery offense that prohibits the giving of political contributions under certain circumstances. TEX. PENAL CODE § 36.02(a)(4). That provision states that a person commits bribery if he intentionally or knowingly offers, confers, or agrees to confer on another

> any benefit that is a political contribution as defined by Title 15, Election Code . . . if the benefit was offered, conferred, solicited, accepted, or agreed to pursuant to an express agreement to take or withhold a specific exercise of official discretion if such exercise of official discretion would not have been taken or withheld but for the benefit; notwithstanding any rule of evidence or jury instruction allowing factual inferences in the absence of certain evidence, direct evidence of the express agreement shall be required in any prosecution under this subdivision.

TEX. PENAL CODE § 36.02(a)(4) (footnote omitted).

CODE § 251.001(3), (5). As the State aptly put it, the only way it could meet its burden of proof was to show that (1) Stacy gave the money to Spencer with the aim of "bribing" Wooten to enter the race, to continue her campaign, and to issue favorable rulings once elected, but that (2) Stacy had no intent for her money to be used in Wooten's campaign.[8]

The State's theory of the case was that David and Stacy wanted Sandoval unseated because he unfairly ruled against the Carys. The State alleged that Stacy planned to unseat Sandoval by bribing the person recruited by Spencer—Wooten—to run against Sandoval. The allegations that Stacy improperly induced Wooten to enter the race and to continue campaigning were only steps along the path to Stacy's ultimate objective—favorable rulings. To get those favorable rulings, Wooten had to get elected.

The court of appeals, addressing the State's continuing and favorable-rulings theories,[9] exhaustively reviewed the evidence and concluded that a rational jury could have reasonably inferred that Stacy indirectly offered the $150,000 to Wooten to bribe her to run against Sandoval and give the Carys favorable rulings. *Cary*, 2014 WL 4261233, at

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[8]The State argues that, when the evidence is "properly analyzed under the *Jackson* standard, and direct and circumstantial evidence *against* the jury's verdict is ignored, a rational juror could have reasonably found that [Stacy]'s payments were not political contributions." State's Brief on the Merits at 36 (emphasis in original). That is a misstatement of law. In a legal-sufficiency analysis, no evidence is "ignored" because the standard requires a reviewing court to view *all* of the evidence in the light most favorable to the verdict. *Jackson*, 443 U.S. at 318–19; *Moff*, 131 S.W.3d at 489. In this case, that distinction is of particular importance.

[9]The court of appeals did not address the State's theory that Stacy bribed Wooten by inducing her to become a candidate because it found the evidence sufficient on the State's other two theories—the "continuing to campaign" theory and the "favorable rulings" theory. *Cary*, 2014 WL 4261233, at *28.

*29–34; *see* TEX. ELEC. CODE § 251.001 ("contribution" includes indirect transfers of money). We agree with the court of appeals that a rational jury could have so inferred. However, the majority went on to erroneously conclude that "a rational jury could have reasonably found that Stacy's payments were not political contributions as defined by statute." *Id.* at *34. This mistake led the court into error.

When the correct definition of "political contribution" is used to examine the sufficiency of the evidence,[10] no rational jury could have reasonably believed that Stacy sought to get Wooten elected so the Carys could get favorable treatment, but that Stacy had no intention that her money would be used to elect Wooten. In other words, the only benefits conferred to Wooten were transfers of funds from Stacy to Spencer to fund Wooten's campaign. As charged in this case, it is insufficient to show that a person intentionally and knowingly offered a benefit as consideration for the recipient's exercise of official discretion. *Compare* TEX. PENAL CODE § 36.02(a)(1)–(a)(2), *with id.* § 36.02(a)(4). The statute requires more. Irrespective of a person's intent to "bribe"

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[10]The State asserts that the contributions made by Stacy are not, as a matter of law, political contributions. It also argues that a legal-sufficiency review does not extend to a jury's determination of specific intent. We agree with the State that Stacy's payments were not political contributions as a matter of law because, to determine whether someone made a political contribution, the subjective intent of the contributor must be ascertained. TEX. ELEC. CODE § 251.001(3), (5). But we disagree with the State to the extent it argues that only a jury can determine whether a defendant had the necessary intent to commit a crime. *Delay v. State*, 465 S.W.3d 232, 247–53 (Tex. Crim. App. 2014) (defendant found guilty by a jury but convictions reversed due to insufficient evidence, including insufficient evidence of *mens rea*). The issue of specific intent is not insulated from legal-sufficiency review simply because the defendant had a jury trial instead of a bench trial.

someone, the legislature has decided that, if the benefit offered to the recipient is a political contribution, the actor has not committed bribery as charged in this case. "[S]ometimes appellate review of legal sufficiency involves simply construing the reach of the applicable penal provision in order to decide whether the evidence, even when viewed in the light most favorable to conviction, actually establishes a violation of the law." *Delay*, 465 S.W.3d at 235. We hold that there is insufficient evidence to sustain Stacy's convictions for bribery under any theory alleged by the State, and we sustain her first ground for review.[11]

OTHER COUNTS

In her fourth ground for review Stacy argues that the evidence is insufficient to support her convictions for money laundering and engaging in organized criminal activity. We agree and will sustain her fourth ground for review.

Money Laundering

The State alleged that Stacy, pursuant to one scheme and continuing course of conduct, knowingly financed, invested, or intended to finance and invest funds that she believed were intended to further the commission of bribery. TEX. PENAL CODE § 34.02.

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[11]In addition to briefing from the parties, we have received an *amicus curiae* brief from the Pillar of Law Institute (Institute). While it does not take a position on Stacy's guilt or innocence, it argues that protected political speech is a fundamental right that must be jealously guarded. According to it, in resolving this appeal, we should address First Amendment issues raised at trial and send a message that state actors have a duty to respect free speech rights. In light of our disposition of this appeal based on legal-sufficiency grounds, we need not address the arguments of the Institute relating to the First Amendment.

Bribery was the only predicate offense alleged to support the money-laundering count. And, because the State cannot prove the only predicate offense it alleged, the evidence is likewise insufficient to support Stacy's conviction for money laundering.

Engaging in Organized Criminal Activity

A person engages in organized criminal activity if, with the intent to establish, maintain, or participate in a combination or in the profits of a combination, the person commits or conspires to commit certain predicate offenses. TEX. PENAL CODE § 71.02(a). The predicate offenses alleged in this case were bribery, money laundering, and tampering with a government document. In light of our holdings that there is insufficient evidence to support Stacy's convictions for bribery and money laundering, the State could prove Stacy's guilt only by showing that she tampered with a government document. Without proof of the predicate offense, there can be no conviction.

The State alleged that Wooten tampered with her 2008 personal financial statement (PFS)—a governmental record—when she filed it with the Texas Ethics Commission, swearing and affirming that it was correct, although she knew that it was not. *Id.* § 37.10(a)(5). According to the State, Stacy is guilty because she participated in a combination with Wooten and at least one other person (David or Spencer) to tamper with Wooten's PFS by omitting loans and gifts Wooten personally received from David, Stacy, and Spencer. *Id.* § 71.02(a). After examining the record, we conclude that there is insufficient evidence to sustain Stacy's conviction for engaging in organized criminal

activity.

A PFS is a verified statement that gives an accounting of the financial activity of an *individual* and the individual's spouse and dependent children during a certain time period. TEX. GOV'T CODE § 572.023(a). Candidates and officeholders must file a PFS. *Id.* § 572.021. Among other requirements, a filer must disclose any personal loans in excess of $1,000 and personal gifts over $250 received by the filer, his spouse, or his dependant children. *Id.* § 572.023(a)(5), (7). The relevant question then is whether there is evidence that Stacy, David, or Spencer gave Wooten money in her individual capacity. We conclude that there is none.

The evidence shows that Spencer paid Wooten's campaign expenses with money he received from Stacy. Spencer would then invoice the Wooten campaign. He did this knowing that Wooten's campaign did not have the funds to pay him when he sent the campaign bills. Instead, he paid for Wooten's campaign out of pocket on the understanding that Wooten would raise money after being elected and repay him then. Kyle Swihart, the State's forensic-fraud analyst testified that, not only did the Carys never give money directly to Wooten, there was no documented instance in which the Carys gave money to a third party who then gave money to Wooten. Because there is no evidence that Wooten received money from the Carys or Spencer that she was required to disclose on her 2008 PFS (i.e., she received no money in her individual capacity), there is insufficient evidence to support Stacy's conviction for engaging in organized criminal

activity.

CONCLUSION

Because there is insufficient evidence to support Stacy's convictions for bribery, money laundering, and engaging in organized criminal activity, we reverse the judgment of the court of appeals and render acquittals on each count.

Delivered: December 14, 2016

Publish

Filed: 5/19/2017 4:28:51 PM
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CAUSE NO. 366-81639-2011

THE STATE OF TEXAS	§	IN THE 366th JUDICIAL
	§	
v.	§	DISTRICT OF
	§	
SUZANNE H. WOOTEN	§	COLLIN COUNTY, TEXAS

STATE'S ANSWER TO APPLICANT'S AMENDED ARTICLE 11.072 APPLICATION

TO THE HONORABLE JUDGE OF THE 366th JUDICIAL DISTRICT COURT OF COLLIN COUNTY, TEXAS:

COMES NOW the State of Texas, by and through the District Attorney Pro Tem of Collin County, Adrienne McFarland, and files this the State's answer to Applicant's Amended Article 11.072 application, pursuant to Section 5(b) of Article 11.072 of the Code of Criminal Procedure.

I. INTRODUCTION

In sum, and for the reasons outlined below, the State *agrees* that relief is appropriate here, so long as it is limited to the scope and rationale described in *Ex parte Perales*, 215 S.W.3d 418, 419–20 (Tex. Crim. App. 2007). Stated differently, the State agrees that Applicant's judgment of conviction and sentence in cause number 366-81639-2011, should be "vacated, and a judgment of acquittal rendered[,]" as to all 9 counts. *Id.* at 420.

Exhibit "B"

II. BACKGROUND

Applicant was charged by indictment with six counts of Bribery, one count of Engaging in Organized Criminal Activity, one count of Money Laundering, and one count of Tampering with a Governmental Record. *See* Am. Appl. Ex. A. The basic allegations in the indictment were that, between the period of January 4, 2008 and March 14, 2008, in Collin County, Texas, Applicant received $150,000.00 from David and Stacy Cary—and that Applicant accepted this money in exchange for her agreement to campaign and seek election as the 380th District Court of Collin County; and ultimately, to rule favorably in proceedings involving David Cary. *See id.*

A jury trial was held in late November of 2011, and the jury found Applicant guilty of six counts of Bribery, one count of Money Laundering, and one count of Tampering with a Governmental Record, as alleged in the indictment. *See* State Ex. A.[1] The jury also found Applicant guilty of the lesser included offense of Conspiracy to Commit Engaging In Organized Criminal Activity. *See id.* After Applicant was found guilty, as the parties were preparing to start the punishment phase of the trial, the State offered Applicant 10 years' community supervision in exchange for her immediate resignation of her judicial office and her agreement to waive her right appeal.

[1] Exhibit A contains copies of the judgments of convictions and sentences for all nine counts, and also the jury verdict forms for each count.

Applicant accepted the State's offer and the court sentenced her to 10 years' community supervision on eight of the counts, and five years' community supervision on the Tampering with a Governmental Record count. *See id.* Applicant did not change her plea of "not guilty."

The State later prosecuted David and Stacy Cary as participants in the same alleged scheme. *See Stacy Cary v. State*, 507 S.W.3d 750, 753–54 (Tex. Crim. App. 2016) (describing the allegations and their connection to Applicant); *David Cary v. State*, 507 S.W.3d 761, 763 (Tex. Crim. App. 2016). Both were convicted of crimes that were largely identical to those for which Applicant was convicted; and pursuant to substantively similar evidence. *See Stacy Cary*, 507 S.W.3d at 753–54; *David Cary*, 507 S.W.3d at 763. However, the Court of Criminal Appeals (CCA) ultimately vacated David and Stacy Cary's convictions, finding that there was legally insufficient evidence to support the respective jury verdicts, and rendered acquittals. *See Stacy Cary v. State*, 507 S.W.3d at 761 ("[W]e reverse the judgment of the court of appeals and render acquittals on each count."); *David Cary*, 507 S.W.3d at 768.

A. The CCA's holdings in the *Cary* appeals

Given the procedural posture of the two appeals (i.e., affirming and reversing two different intermediate appellate panels), the CCA provided slightly different rationales for each. The *Stacy Cary* holding is:

> When the correct definition of "political contribution" is used to examine the sufficiency of the evidence, no rational jury could have reasonably 10 believed that Stacy sought to get Wooten elected so the Carys could get favorable treatment, but that Stacy had no intention that her money would be used to elect Wooten. In other words, the only benefits conferred to Wooten were transfers of funds from Stacy to Spencer to fund Wooten's campaign. As charged in this case, it is insufficient to show that a person intentionally and knowingly offered a benefit as consideration for the recipient's exercise of official discretion. *Compare* TEX. PENAL CODE § 36.02(a)(1)–(a)(2), *with id.* § 36.02(a)(4). The statute requires more. Irrespective of a person's intent to "bribe" someone, the legislature has decided that, if the benefit offered to the recipient is a political contribution, the actor has not committed bribery as charged in this case. . . . *We hold that there is insufficient evidence to sustain Stacy's convictions for bribery under any theory alleged by the State, and we sustain her first ground for review.*

Stacy Cary, 507 S.W.3d at 759 (emphasis added). The *David Cary* holding is this:

> The State also contends that the record supports conflicting inferences as to whether the money offered to Wooten was a political contribution and that, because appellate courts resolve conflicting inferences in favor of the conviction, the lower court erred when it substituted its judgment for that of the jury. It is true that appellate courts resolve conflicting inferences in favor of the conviction, but we conclude as the court of appeals did that the record in this case does not support conflicting inferences. While a rational jury could have inferred that David offered money to Wooten as consideration for her decisions to enter the race, to continue her campaign, and to render rulings favorable to the Carys, no rational jury could have also believed that David bribed Wooten to get elected to give the Carys favorable treatment, but that he had no intention that Stacy's $150,000 would be used in Wooten's campaign. To accomplish his goals, Wooten would have to be elected.

> We hold that the evidence is insufficient to prove that David committed bribery as charged because the State failed to negate the political-contribution exception.

David Cary, 507 S.W.3d at 767.

In sum, the CCA held that, according to the theories alleged in the indictment, Stacy and David necessarily wanted and needed Applicant to first get elected as a judge in order to advance their corrupt intent that Applicant issue favorable rulings on David's behalf. Hence, according to the CCA, all of the "corrupt" payments to Applicant—which, as charged were directed to Wooten's *campaign—must* have been political contributions, *as a matter of law*. Stated differently, if the intent of a payment was necessarily to get a judge elected in order to advance the scheme, then those payments, in furtherance of that scheme, must be "political contributions," and the jury was only permitted to find that the Cary's specific intent was to elect Applicant.

B. *Ex parte Perales*

The CCA's decision in *Ex parte Perales* is relevant here. That opinion reads in relevant part:

> It is well settled that a challenge to the sufficiency of the evidence is not cognizable on an application for a post-conviction writ of habeas corpus. However, a claim of no evidence is cognizable because "[w]here there has been no evidence upon which to base a conviction, a violation of due process has occurred and the conviction may be attacked collaterally in a habeas corpus proceeding." If the record is devoid of evidentiary support for a conviction, an evidentiary challenge is cognizable on a writ of habeas corpus.

> We agree with the Amarillo Court of Appeals' conclusions that an allegation of delivery of a controlled substance by actual transfer to an unborn child cannot constitute delivery, which we have held "contemplates the manual transfer of property from the transferor to the transferee or to the transferee's agents or to someone identified in law with the transferee." We have also held that such a transfer occurs when the defendant transfers or surrenders actual possession and control of a controlled substance to another. Since such an actual transfer delivery from a mother to her unborn child is not possible, we conclude that, as a matter of law, delivery by actual transfer as alleged did not occur.

Perales, 215 S.W.3d at 419–20 (internal citations omitted)

Application of *Perales* to this Article 11.072 application—by way of the *Cary* appeals—works as follows: like the defendant in *Perales* (who could not have committed the crime under the CCA's interpretation of the "delivery" statute)—as of the moment the CCA construed the relevant statutes and issued its opinions in the *Cary* appeals—there could have been *no evidence* that that the Cary-payments were not political contributions.

Moreover, the manner in which the CCA acquitted Stacy Cary of Engaging in Organized Criminal Activity also applies to Applicant. *See e.g., Stacy Cary*, 507 S.W.3d at 761 ("Because there is *no evidence* that Wooten received money from the Carys or Spencer that she was required to disclose on her 2008 PFS (i.e., she received no money in her individual capacity), there is insufficient evidence to support Stacy's conviction for engaging in organized criminal activity.") (emphasis added).

As a result, the State agrees that *Perales* extends here, and that as a result of the retroactive effect of the CCA's decisions in the *Cary* appeals, there could have been no evidence to support Applicant's convictions.

III. The Court should deny Applicant's supplemental claims.

In her Application, Applicant raises three "Supplemental Legal Challenges" to her convictions. *See* Am. Appl. At 11–16. Those supplemental challenges are:

1. The trial court erred by not granting Applicant's motion to quash the indictment based on the substance and the law;

2. The trial court erred when it did not grant Applicant's motion for instructed verdict at the time the State completed their case in chief; and

3. The trial court erred when it denied the Applicant requested jury charge amendments, more specifically to require the State to prove beyond a reasonable doubt that any funds paid were not political contributions.

Am. Appl. At 11–16. These supplemental claims should be denied.

"The Great Writ should not be used in matters that should have been raised on appeal. Even a constitutional claim is forfeited if the applicant had the opportunity to raise the issue on appeal." *Ex parte Townsend*, 137 S.W.3d 79, 81 (Tex. Crim. App. 2004) (citing *Ex parte Gardner*, 959 S.W.2d 189, 191 (Tex. Crim. App. 1996)). Because each of the three supplemental claims could have been raised on direct appeal—which Applicant waived—they cannot be raised in state habeas, and must be denied. *See id.*

IV. Conclusion

For these reasons the State does not oppose relief here—so long as it is limited to the following remedy with respect to Applicant's conviction in cause number 366-81639-2011, including all 9 counts: "The judgment in this cause is vacated and a judgment of acquittal rendered." *Perales*, 215 S.W.3d at 420.

Respectfully Submitted,

/s/ Adrienne McFarland
ADRIENNE McFARLAND
District Attorney Pro Tem
Deputy Attorney General
for Criminal Justice
State Bar No. 13597375

P. O. Box 12548, Capitol Station
Austin, Texas 78711
Adrienne.McFarland@oag.Texas.gov

ATTORNEY FOR THE STATE OF TEXAS

CERTIFICATE OF SERVICE

I do hereby certify that if the email address of the attorneys designated below is on file with the electronic filing manager, a true and correct copy of the foregoing notice was served electronically by that electronic filing manager, on the following attorney via electronic mail:

Peter A. Schulte
Counsel for Applicant

Moreover, I do hereby certify that if the email addresses for the designated attorneys are not on file with the electronic filing manager, a true and correct copy of the foregoing pleading was served by email, addressed to:

Peter A. Schulte
pete@schulteapgar.com

/s/ Adrienne McFarland
ADRIENNE McFARLAND
District Attorney Pro Tem
Deputy Attorney General
for Criminal Justice

Exhibit A

State's Answer

CASE NO. 366-81639-2011 COUNT 1
INCIDENT NO./TRN: 9191879361 TRS#A001

THE STATE OF TEXAS	§	IN THE 366TH DISTRICT COURT
	§	
V.	§	OF
	§	
SUZANNE H. WOOTEN	§	COLLIN COUNTY, TEXAS
	§	

STATE ID NO.: TX08702199

JUDGMENT OF CONVICTION BY JURY/PUNISHMENT BY COURT

Judge Presiding:	HON. KERRY L. RUSSELL	Date Judgment Entered:	12/05/11
Attorney for State:	HARRY WHITE	Attorney for Defendant:	TOBY SHOOK & PETER SCHULTE

Offense for which Defendant Convicted:
ENGAGING IN ORGANIZED CRIMINAL ACTIVITY

Charging Instrument: INDICTMENT	Statute for Offense: 71.02
Date of Offense: Between on or about 09/19/2007 to 10/20/2009	
Degree of Offense: SECOND DEGREE FELONY	Plea to Offense: Not Guilty
VERDICT of Jury: GUILTY	Findings on Deadly Weapon: N/A
Plea to 1st Enhancement Paragraph: N/A	Plea to 2nd Enhancement/Habitual Paragraph: N/A
Findings on 1st Enhancement Paragraph: N/A	Findings on 2nd Enhancement/Habitual Paragraph: N/A

Plea to Jurisdictional Paragraph: N/A

Findings on Jurisdictional Paragraph: N/A

Punished Assessed by: COURT	Date Sentence Imposed: NOVEMBER 28, 2011	Date Sentence to Commence: NOVEMBER 28, 2011

Punishment and Place of Confinement: TEN Years TDCJ- INSTITUTIONAL DIVISION

THIS SENTENCE SHALL RUN CONCURRENTLY.

X SENTENCE OF CONFINEMENT SUSPENDED, DEFENDANT PLACED ON COMMUNITY SUPERVISION FOR TEN YEARS.

Fine:	Court Costs:	Restitution:	Restitution Payable to:
$10,000.00	$ 236.00	0.00	N/A

Sex Offender Registration Requirements DO NOT APPLY to the Defendant. TEX. CODE CRIM. PROC. chapter 62.

Time Credited: N/A

ALL pertinent information, names and assessments indicated above are incorporated into the language of the judgment below by reference.

This cause was called for trial in Collin County, Texas. The State appeared by her District Attorney.

Counsel / Waiver of Counsel (select one)

X Defendant appeared in person with Counsel.

☐ Defendant knowingly, intelligently, and voluntarily waived the right to representation by counsel in writing in open court.

It appeared to the Court that Defendant was mentally competent and had pleaded as shown above to the charging instrument. Both parties announced ready for trial. A jury was selected, impaneled, and sworn. The INDICTMENT was read to

The jury heard the evidence submitted and argument of counsel. The Court charged the jury as to its duty to determine the guilt or innocence of Defendant, and the jury retired to consider the evidence. Upon returning to open court, the jury delivered its verdict in the presence of Defendant and defense counsel, if any.

The Court received the verdict and ORDERED it entered upon the minutes of the Court.

Punishment Assessed by Jury / Court / No election (select one)

☐ **Jury.** Defendant entered a plea and filed a written election to have the jury assess punishment. The jury heard evidence relative to the question of punishment. The Court charged the jury and it retired to consider the question of punishment. After due deliberation, the jury was brought into Court, and, in open court, it returned its verdict as indicated above.

X **Court.** Defendant withdrew her jury election after the guilty verdicts on all counts and elected to have the Court assess punishment. After hearing evidence relative to the question of punishment, the Court assessed Defendant's punishment as indicated above.

☐ **No Election.** Defendant did not file a written election as to whether the judge or jury should assess punishment. After hearing evidence relative to the question of punishment, the Court assessed Defendant's punishment as indicated above.

The Court FINDS Defendant committed the above offense and **ORDERS, ADJUDGES AND DECREES** that Defendant is **GUILTY** of the above offense. The Court FINDS the Presentence Investigation, if so ordered, was done according to the applicable provisions of TEX. CODE CRIM. PROC. art. 42.12 § 9.

The Court ORDERS Defendant punished as indicated above. The Court ORDERS Defendant to pay all fines, court costs, and restitution as indicated above.

Punishment Options (select one)

X **Confinement in State Jail or Institutional Division.** The Court ORDERS the authorized agent of the State of Texas or the Sheriff of this County to take, safely convey, and deliver Defendant to the **Director, Institutional Division, TDCJ.** The Court ORDERS Defendant to be confined for the period and in the manner indicated above. The Court ORDERS Defendant remanded to the custody of the Sheriff of this county until the Sheriff can obey the directions of this sentence. The Court ORDERS that upon release from confinement, Defendant proceed immediately to the Collin County District Clerk's Office. Once there, the Court ORDERS Defendant to pay, or make arrangements to pay, any remaining unpaid fines, court costs, and restitution as ordered by the Court above.

☐ **County Jail—Confinement / Confinement in Lieu of Payment.** The Court ORDERS Defendant immediately committed to the custody of the Sheriff of Collin County, Texas on the date the sentence is to commence. Defendant shall be confined in the County Jail for the period indicated above. The Court ORDERS that upon release from confinement, Defendant shall proceed immediately to the Collin County District Clerk's Office. Once there, the Court ORDERS Defendant to pay, or make arrangements to pay, any remaining unpaid fines, court costs, and restitution as ordered by the Court above.

☐ **Fine Only Payment.** The punishment assessed against Defendant is for a FINE ONLY. The Court ORDERS Defendant to proceed immediately to the Office of the Collin County District Clerk. Once there, the Court ORDERS Defendant to pay or make arrangements to pay all fines and court costs as ordered by the Court in this cause.

Execution / Suspension of Sentence (select one)

☐ The Court ORDERS Defendant's sentence EXECUTED.

X The Court ORDERS Defendant's sentence of confinement SUSPENDED. The Court ORDERS Defendant placed on community supervision for the adjudged period (above) so long as Defendant abides by and does not violate the terms and conditions of community supervision. The order setting forth the terms and conditions of community supervision is incorporated into this judgment by reference.

The Court ORDERS that Defendant is given credit noted above on this sentence for the time spent incarcerated.

Signed and Ordered on This 6th Day of DECEMBER, 2011.

X _____

KERRY L. RUSSELL
JUDGE PRESIDING

Right Thumbprint:

COMMUNITY SUPERVISION ORDER-PLEAS OF GUILTY OR NOLO CONTENDERE-JURY WAIVED
NON CAPITAL CRIMINAL MINUTES OF THE 366TH DISTRICT COURT OF COLLIN COUNTY, TEXAS

THE STATE OF TEXAS NO: 366-81639-2011

vs.

Suzanne H Wooten

TRN/TRS: 9191879361/A001

SID: 08702199

Adjudicated

ORDER SUSPENDING IMPOSITION OF SENTENCE AND PLACING DEFENDANT ON COMMUNITY SUPERVISION

Having suspended the imposition of punishment or having deferred adjudication of a finding in this case and having placed the defendant on community supervision in the above-entitled and numbered cause on the 28th day of November, 2011 for a period of 10 Years for the offense of Engaging In Organized Criminal Activity the Court ORDERS the defendant, during this period of supervision, to comply with the following terms and conditions, to-wit: You will:

General:

1. Commit no offense against the laws of this or any State, or the United States;
2. Report to a Supervision Officer as scheduled by the Supervision Officer;
3. Permit the Supervision Officer to visit you at home or elsewhere;
4. Report any change in address, change of employment, or arrest to the Supervision Officer within 48 hours;
5. Remain within the supervising county unless permitted to depart by the Supervision Officer;
6. Provide a **DNA sample** pursuant to Subchapter G, Chapter 411, Government Code, for the purpose of creating a DNA record, unless the defendant has already submitted the required sample under other state law and **pay all costs associated**;
7. Perform 120.00 hours of community service work at the rate of 1 hour per month managed and facilitated by such agencies as the Supervision Officer directs and pay all costs associated therewith, as directed by the Supervision Officer;
8. Have no contact with any co-defendants involved in this case;
9. Testify honestly about any co-defendant's participation in this case;
10. Within 24 hours, report to the Collin County Detention Facility at 4300 Community Avenue, McKinney, Texas, for the purpose of providing processing information;
11. Resign bench immediately;

Employment/Education:

12. Work faithfully at suitable employment insofar as possible;

Substance Abuse:

13. Not use marijuana, dangerous drugs, or any substance prohibited by the Texas Controlled Substances Act;
14. Submit a non-dilute random urine sample for testing and/or other approved medical test as directed by your supervision officer and pay for such testing. If directed by the Supervision Officer, call a designated number daily to determine the days that you shall submit a sample to determine the use of illicit drugs or alcohol;
15. Participate in the Treatment Alternatives to Incarceration Program (TAIP) by submitting to a substance abuse evaluation within 30 days, paying all costs as directed by the Supervision Officer, and successfully completing the recommended course of treatment;
16. Abstain from the use of alcohol in any form;

Special programs:

17. Participate in and successfully complete a cognitive program and pay all costs as directed by the Supervision Officer;
18. Participate in and successfully complete an Anti-Theft program and pay all costs as directed by the Supervision Officer;
19. Submit to psychological/psychiatric evaluation within 90 days of this order as approved by the Supervision Officer and complete any treatment recommended as a result of that evaluation;

Waivers:

20. Waive the right to appeal and right to file or urge any motion for new trial;
21. Waive the right to any future due diligence claim;

Financial:

22. Support your dependents;
23. Pay the following amounts as described below, beginning the month next following the entry of Judgment until the total amount is paid:
    a. Restitution of $0.00;

Defendant's Name: Suzanne H Wooten
Cause: 366-81639-2011

b. Supervision fee of $50.00 per month (an additional $5.00 per month for the following offenses: Indecency with a Child, ~~Sexual Assault, Aggravated Sexual Assault, Prohibited Sexual Conduct, Sexual Performance by a Child, Possession or~~ Promotion of Child Pornography); waived while in jail, residential treatment center, or supervised out of state; in the event supervision is transferred to another state, immediately upon the receiving state's rejection or termination of supervision, the $50.00 per month supervision fee again becomes effective as stated above;
c. Court cost of $To Be Determined within thirty (30) days;
d. Fine of $10,000.00 within thirty (30) days – (all counts run concurrent);
e. Crime stoppers fee of $50.00 within thirty (30) days;

If you contend that you are indigent and request permission to discharge fines, costs, or supervision fees by performing community service, the Community Supervision and Corrections Department (CSCD) is authorized to assess credit per the approved CSCD community service policy.
You are further ordered to comply with all future orders of the Court (You will be furnished with a copy of all such orders).

You are advised that under the laws of this State, the Court has determined and imposed the above terms and conditions of your community supervision, and may at any time during this period of supervision alter or modify them. The Court also has the authority, at any time during the period of community supervision to revoke your community supervision for any violation of the conditions of your supervision set out above. upon motion and hearing. (SA)

Signed this 29 day of November, A.D., 2011.

WITNESS: Jamie Sanchez
Supervision Officer

Judge Presiding

Defendant

Right Thumb

CASE NO. 366-81639-2011 COUNT 2
INCIDENT NO./TRN: 9191879361 TRS# D001

THE STATE OF TEXAS	§	IN THE 366TH DISTRICT COURT
	§	
V.	§	OF
	§	
SUZANNE H. WOOTEN	§	COLLIN COUNTY, TEXAS
	§	

STATE ID NO.: TX08702199

JUDGMENT OF CONVICTION BY JURY/PUNISHMENT BY COURT

Judge Presiding:	HON. KERRY L. RUSSELL	Date Judgment Entered:	12/05/11
Attorney for State:	HARRY WHITE	Attorney for Defendant:	TOBY SHOOK & PETER SCHULTE

Offense for which Defendant Convicted:
BRIBERY

Charging Instrument: INDICTMENT	Statute for Offense: 36.02
Date of Offense: 01/04/2008	
Degree of Offense: SECOND DEGREE FELONY	Plea to Offense: Not Guilty
VERDICT of Jury: GUILTY	Findings on Deadly Weapon: N/A
Plea to 1st Enhancement Paragraph: N/A	Plea to 2nd Enhancement/Habitual Paragraph: N/A
Findings on 1st Enhancement Paragraph: N/A	Findings on 2nd Enhancement/Habitual Paragraph: N/A

Plea to Jurisdictional Paragraph: N/A

Findings on Jurisdictional Paragraph: N/A

Punished Assessed by:	Date Sentence Imposed:	Date Sentence to Commence:
COURT	NOVEMBER 28, 2011	NOVEMBER 28, 2011

Punishment and Place of Confinement: TEN Years TDCJ- INSTITUTIONAL DIVISION

THIS SENTENCE SHALL RUN CONCURRENTLY.

X SENTENCE OF CONFINEMENT SUSPENDED, DEFENDANT PLACED ON COMMUNITY SUPERVISION FOR TEN YEARS.

Fine:	Court Costs:	Restitution:	Restitution Payable to:
$10,000.00	$	0.00	N/A

Sex Offender Registration Requirements DO NOT APPLY to the Defendant. TEX. CODE CRIM. PROC. chapter 62.

Time Credited: N/A

ALL pertinent information, names and assessments indicated above are incorporated into the language of the judgment below by reference.

This cause was called for trial in Collin County, Texas. The State appeared by her District Attorney.

Counsel / Waiver of Counsel (select one)

X Defendant appeared in person with Counsel.

☐ Defendant knowingly, intelligently, and voluntarily waived the right to representation by counsel in writing in open court.

It appeared to the Court that Defendant was mentally competent and had pleaded as shown above to the charging instrument. Both parties announced ready for trial. A jury was selected, impaneled, and sworn. The INDICTMENT was read to the jury, and Defendant entered a plea to the charged offense. The Court received [illegible]

The jury heard the evidence submitted and argument of counsel. The Court charged the jury as to its duty to determine the guilt or innocence of Defendant, and the jury retired to consider the evidence. Upon returning to open court, the jury delivered its verdict in the presence of Defendant and defense counsel, if any.

The Court received the verdict and ORDERED it entered upon the minutes of the Court.

Punishment Assessed by Jury / Court / No election (select one)

☐ **Jury.** Defendant entered a plea and filed a written election to have the jury assess punishment. The jury heard evidence relative to the question of punishment. The Court charged the jury and it retired to consider the question of punishment. After due deliberation, the jury was brought into Court, and, in open court, it returned its verdict as indicated above.

X **Court.** Defendant withdrew her jury election after the guilty verdicts on all counts and elected to have the Court assess punishment. After hearing evidence relative to the question of punishment, the Court assessed Defendant's punishment as indicated above.

☐ **No Election.** Defendant did not file a written election as to whether the judge or jury should assess punishment. After hearing evidence relative to the question of punishment, the Court assessed Defendant's punishment as indicated above.

The Court FINDS Defendant committed the above offense and **ORDERS, ADJUDGES AND DECREES** that Defendant is **GUILTY** of the above offense. The Court FINDS the Presentence Investigation, if so ordered, was done according to the applicable provisions of TEX. CODE CRIM. PROC. art. 42.12 § 9.

The Court ORDERS Defendant punished as indicated above. The Court ORDERS Defendant to pay all fines, court costs, and restitution as indicated above.

Punishment Options (select one)

X **Confinement in State Jail or Institutional Division.** The Court ORDERS the authorized agent of the State of Texas or the Sheriff of this County to take, safely convey, and deliver Defendant to the **Director, Institutional Division, TDCJ.** The Court ORDERS Defendant to be confined for the period and in the manner indicated above. The Court ORDERS Defendant remanded to the custody of the Sheriff of this county until the Sheriff can obey the directions of this sentence. The Court ORDERS that upon release from confinement, Defendant proceed immediately to the Collin County District Clerk's Office. Once there, the Court ORDERS Defendant to pay, or make arrangements to pay, any remaining unpaid fines, court costs, and restitution as ordered by the Court above.

☐ **County Jail—Confinement / Confinement in Lieu of Payment.** The Court ORDERS Defendant immediately committed to the custody of the Sheriff of Collin County, Texas on the date the sentence is to commence. Defendant shall be confined in the County Jail for the period indicated above. The Court ORDERS that upon release from confinement, Defendant shall proceed immediately to the Collin County District Clerk's Office. Once there, the Court ORDERS Defendant to pay, or make arrangements to pay, any remaining unpaid fines, court costs, and restitution as ordered by the Court above.

☐ **Fine Only Payment.** The punishment assessed against Defendant is for a FINE ONLY. The Court ORDERS Defendant to proceed immediately to the Office of the Collin County District Clerk. Once there, the Court ORDERS Defendant to pay or make arrangements to pay all fines and court costs as ordered by the Court in this cause.

Execution / Suspension of Sentence (select one)

☐ The Court ORDERS Defendant's sentence EXECUTED.

X The Court ORDERS Defendant's sentence of confinement SUSPENDED. The Court ORDERS Defendant placed on community supervision for the adjudged period (above) so long as Defendant abides by and does not violate the terms and conditions of community supervision. The order setting forth the terms and conditions of community supervision is incorporated into this judgment by reference.

The Court ORDERS that Defendant is given credit noted above on this sentence for the time spent incarcerated.

Signed and Ordered on This 6th Day of DECEMBER, 2011.

X _____

KERRY L. RUSSELL
JUDGE PRESIDING

Right Thumbprint:

COMMUNITY SUPERVISION ORDER-PLEAS OF GUILTY OR NOLO CONTENDERE-JURY WAIVED
NON CAPITAL CRIMINAL MINUTES OF THE 366TH DISTRICT COURT OF COLLIN COUNTY, TEXAS

THE STATE OF TEXAS NO: 366-81639-2011-CTII

vs.

Suzanne H Wooten

TRN/TRS:9191879361/D001

SID: 08702199

Adjudicated

ORDER SUSPENDING IMPOSITION OF SENTENCE AND PLACING DEFENDANT ON COMMUNITY SUPERVISION

Having suspended the imposition of punishment or having deferred adjudication of a finding in this case and having placed the defendant on community supervision in the above-entitled and numbered cause on the 28th day of November, 2011 for a period of 10 Years for the offense of Bribery the Court ORDERS the defendant, during this period of supervision, to comply with the following terms and conditions, to-wit: You will:

General:

1. Commit no offense against the laws of this or any State, or the United States;
2. Report to a Supervision Officer as scheduled by the Supervision Officer;
3. Permit the Supervision Officer to visit you at home or elsewhere;
4. Report any change in address, change of employment, or arrest to the Supervision Officer within 48 hours;
5. Remain within the supervising county unless permitted to depart by the Supervision Officer;
6. Provide a **DNA sample** pursuant to Subchapter G, Chapter 411, Government Code, for the purpose of creating a DNA record, unless the defendant has already submitted the required sample under other state law and **pay all costs associated**;
7. Perform 120.00 hours of community service work at the rate of 1 hour per month managed and facilitated by such agencies as the Supervision Officer directs and pay all costs associated therewith, as directed by the Supervision Officer;
8. Have no contact with any co-defendants involved in this case;
9. Testify honestly about any co-defendant's participation in this case;
10. Within 24 hours, report to the Collin County Detention Facility at 4300 Community Avenue, McKinney, Texas, for the purpose of providing processing information;
11. Resign bench immediately;

Employment/Education:

12. Work faithfully at suitable employment insofar as possible;

Substance Abuse:

13. Not use marijuana, dangerous drugs, or any substance prohibited by the Texas Controlled Substances Act;
14. Submit a non-dilute random urine sample for testing and/or other approved medical test as directed by your supervision officer and pay for such testing. If directed by the Supervision Officer, call a designated number daily to determine the days that you shall submit a sample to determine the use of illicit drugs or alcohol;
15. Participate in the Treatment Alternatives to Incarceration Program (TAIP) by submitting to a substance abuse evaluation within 30 days, paying all costs as directed by the Supervision Officer, and successfully completing the recommended course of treatment;
16. Abstain from the use of alcohol in any form;

Special programs:

17. Participate in and successfully complete a cognitive program and pay all costs as directed by the Supervision Officer;
18. Participate in and successfully complete an Anti-Theft program and pay all costs as directed by the Supervision Officer;
19. Submit to psychological/psychiatric evaluation within 90 days of this order as approved by the Supervision Officer and complete any treatment recommended as a result of that evaluation;

Waivers:

20. Waive the right to appeal and right to file or urge any motion for new trial;
21. Waive the right to any future due diligence claim;

Financial:

22. Support your dependents;
23. Pay the following amounts as described below, beginning the month next following the entry of Judgment until the total amount is paid:
    a. Restitution of $0.00;

b. Supervision fee of $50.00 per month (an additional $5.00 per month for the following offenses: Indecency with a Child, Sexual Assault, Aggravated Sexual Assault, Prohibited Sexual Conduct, Sexual Performance by a Child, Possession or Promotion of Child Pornography); waived while in jail, residential treatment center, or supervised out of state; in the event supervision is transferred to another state, immediately upon the receiving state's rejection or termination of supervision, the $50.00 per month supervision fee again becomes effective as stated above;

c. Court cost of $To Be Determined within thirty (30) days;

d. Fine of $10,000.00 within thirty (30) days – (all counts run concurrent);

If you contend that you are indigent and request permission to discharge fines, costs, or supervision fees by performing community service, the Community Supervision and Corrections Department (CSCD) is authorized to assess credit per the approved CSCD community service policy.
You are further ordered to comply with all future orders of the Court (You will be furnished with a copy of all such orders).

You are advised that under the laws of this State, the Court has determined and imposed the above terms and conditions of your community supervision, and may at any time during this period of supervision alter or modify them. The Court also has the authority, at any time during the period of community supervision to revoke your community supervision for any violation of the conditions of your supervision set out above. upon motion and hearing. SC

Signed this 28 day of November, A.D., 2011.

WITNESS: _____
Supervision Officer

_____
Judge Presiding

_____
Defendant

_____
Right Thumb

CASE NO. 366-81639-2011 COUNT 3
INCIDENT NO./TRN: 9191879361 TRS# D002

THE STATE OF TEXAS	§	IN THE 366TH DISTRICT COURT
	§	
V.	§	OF
	§	
SUZANNE H. WOOTEN	§	COLLIN COUNTY, TEXAS
	§	

STATE ID NO.: TX08702199

JUDGMENT OF CONVICTION BY JURY/PUNISHMENT BY COURT

Judge Presiding:	HON. KERRY L. RUSSELL	Date Judgment Entered:	12/05/11
Attorney for State:	HARRY WHITE	Attorney for Defendant:	TOBY SHOOK & PETER SCHULTE

Offense for which Defendant Convicted:
BRIBERY

Charging Instrument: INDICTMENT	Statute for Offense: 36.02
Date of Offense: 01/30/2008	
Degree of Offense: SECOND DEGREE FELONY	Plea to Offense: Not Guilty
VERDICT of Jury: GUILTY	Findings on Deadly Weapon: N/A
Plea to 1st Enhancement Paragraph: N/A	Plea to 2nd Enhancement/Habitual Paragraph: N/A
Findings on 1st Enhancement Paragraph: N/A	Findings on 2nd Enhancement/Habitual Paragraph: N/A

Plea to Jurisdictional Paragraph: N/A

Findings on Jurisdictional Paragraph: N/A

Punished Assessed by:	Date Sentence Imposed:	Date Sentence to Commence:
COURT	NOVEMBER 28, 2011	NOVEMBER 28, 2011

Punishment and Place of Confinement: TEN Years TDCJ- INSTITUTIONAL DIVISION

THIS SENTENCE SHALL RUN CONCURRENTLY.

X SENTENCE OF CONFINEMENT SUSPENDED, DEFENDANT PLACED ON COMMUNITY SUPERVISION FOR TEN YEARS.

Fine:	Court Costs:	Restitution:	Restitution Payable to:
$10,000.00	$	0.00	N/A

Sex Offender Registration Requirements DO NOT APPLY to the Defendant. TEX. CODE CRIM. PROC. chapter 62.

Time Credited: N/A

ALL pertinent information, names and assessments indicated above are incorporated into the language of the judgment below by reference.

This cause was called for trial in Collin County, Texas. The State appeared by her District Attorney.

Counsel / Waiver of Counsel (select one)

X Defendant appeared in person with Counsel.

☐ Defendant knowingly, intelligently, and voluntarily waived the right to representation by counsel in writing in open court.

It appeared to the Court that Defendant was mentally competent and had pleaded as shown above to the charging instrument. Both parties announced ready for trial. A jury was selected, impaneled, and sworn. The INDICTMENT was read to the jury, and Defendant entered a plea to the charged offense. The Court received the plea and entered it of record.

The jury heard the evidence submitted and argument of counsel. The Court charged the jury as to its duty to determine the guilt or innocence of Defendant, and the jury retired to consider the evidence. Upon returning to open court, the jury delivered its verdict in the presence of Defendant and defense counsel, if any.

The Court received the verdict and ORDERED it entered upon the minutes of the Court.

Punishment Assessed by Jury / Court / No election (select one)

☐ **Jury.** Defendant entered a plea and filed a written election to have the jury assess punishment. The jury heard evidence relative to the question of punishment. The Court charged the jury and it retired to consider the question of punishment. After due deliberation, the jury was brought into Court, and, in open court, it returned its verdict as indicated above.

X **Court.** Defendant withdrew her jury election after the guilty verdicts on all counts and elected to have the Court assess punishment. After hearing evidence relative to the question of punishment, the Court assessed Defendant's punishment as indicated above.

☐ **No Election.** Defendant did not file a written election as to whether the judge or jury should assess punishment. After hearing evidence relative to the question of punishment, the Court assessed Defendant's punishment as indicated above.

The Court FINDS Defendant committed the above offense and **ORDERS, ADJUDGES AND DECREES** that Defendant is **GUILTY** of the above offense. The Court FINDS the Presentence Investigation, if so ordered, was done according to the applicable provisions of TEX. CODE CRIM. PROC. art. 42.12 § 9.

The Court ORDERS Defendant punished as indicated above. The Court ORDERS Defendant to pay all fines, court costs, and restitution as indicated above.

Punishment Options (select one)

X **Confinement in State Jail or Institutional Division.** The Court ORDERS the authorized agent of the State of Texas or the Sheriff of this County to take, safely convey, and deliver Defendant to the **Director, Institutional Division, TDCJ.** The Court ORDERS Defendant to be confined for the period and in the manner indicated above. The Court ORDERS Defendant remanded to the custody of the Sheriff of this county until the Sheriff can obey the directions of this sentence. The Court ORDERS that upon release from confinement, Defendant proceed immediately to the Collin County District Clerk's Office. Once there, the Court ORDERS Defendant to pay, or make arrangements to pay, any remaining unpaid fines, court costs, and restitution as ordered by the Court above.

☐ **County Jail—Confinement / Confinement in Lieu of Payment.** The Court ORDERS Defendant immediately committed to the custody of the Sheriff of Collin County, Texas on the date the sentence is to commence. Defendant shall be confined in the County Jail for the period indicated above. The Court ORDERS that upon release from confinement, Defendant shall proceed immediately to the Collin County District Clerk's Office. Once there, the Court ORDERS Defendant to pay, or make arrangements to pay, any remaining unpaid fines, court costs, and restitution as ordered by the Court above.

☐ **Fine Only Payment.** The punishment assessed against Defendant is for a FINE ONLY. The Court ORDERS Defendant to proceed immediately to the Office of the Collin County District Clerk. Once there, the Court ORDERS Defendant to pay or make arrangements to pay all fines and court costs as ordered by the Court in this cause.

Execution / Suspension of Sentence (select one)

☐ The Court ORDERS Defendant's sentence EXECUTED.

X The Court ORDERS Defendant's sentence of confinement SUSPENDED. The Court ORDERS Defendant placed on community supervision for the adjudged period (above) so long as Defendant abides by and does not violate the terms and conditions of community supervision. The order setting forth the terms and conditions of community supervision is incorporated into this judgment by reference.

The Court ORDERS that Defendant is given credit noted above on this sentence for the time spent incarcerated.

Signed and Ordered on This 6TH Day of DECEMBER, 2011.

X _____

KERRY L. RUSSELL
JUDGE PRESIDING

Right Thumbprint:

COMMUNITY SUPERVISION ORDER-PLEAS OF GUILTY OR NOLO CONTENDERE-JURY WAIVED
NON CAPITAL CRIMINAL MINUTES OF THE 366TH DISTRICT COURT OF COLLIN COUNTY, TEXAS

THE STATE OF TEXAS NO: 366-81639-2011-CTIII

vs.

Suzanne H Wooten

TRN/TRS: 9191879361/D002

SID: 08702199

Adjudicated

ORDER SUSPENDING IMPOSITION OF SENTENCE AND PLACING DEFENDANT ON COMMUNITY SUPERVISION

Having suspended the imposition of punishment or having deferred adjudication of a finding in this case and having placed the defendant on community supervision in the above-entitled and numbered cause on the 28th day of November, 2011 for a period of 10 Years for the offense of Bribery the Court ORDERS the defendant, during this period of supervision, to comply with the following terms and conditions, to-wit: You will:

General:

1. Commit no offense against the laws of this or any State, or the United States;
2. Report to a Supervision Officer as scheduled by the Supervision Officer;
3. Permit the Supervision Officer to visit you at home or elsewhere;
4. Report any change in address, change of employment, or arrest to the Supervision Officer within 48 hours;
5. Remain within the supervising county unless permitted to depart by the Supervision Officer;
6. Provide a **DNA sample** pursuant to Subchapter G, Chapter 411, Government Code, for the purpose of creating a DNA record, unless the defendant has already submitted the required sample under other state law and **pay all costs associated**;
7. Perform 120.00 hours of community service work at the rate of 1 hour per month managed and facilitated by such agencies as the Supervision Officer directs and pay all costs associated therewith, as directed by the Supervision Officer;
8. Have no contact with any co-defendants involved in this case;
9. Testify honestly about any co-defendant's participation in this case;
10. Within 24 hours, report to the Collin County Detention Facility at 4300 Community Avenue, McKinney, Texas, for the purpose of providing processing information;
11. Resign bench immediately;

Employment/Education:

12. Work faithfully at suitable employment insofar as possible;

Substance Abuse:

13. Not use marijuana, dangerous drugs, or any substance prohibited by the Texas Controlled Substances Act;
14. Submit a non-dilute random urine sample for testing and/or other approved medical test as directed by your supervision officer and pay for such testing. If directed by the Supervision Officer, call a designated number daily to determine the days that you shall submit a sample to determine the use of illicit drugs or alcohol;
15. Participate in the Treatment Alternatives to Incarceration Program (TAIP) by submitting to a substance abuse evaluation within 30 days, paying all costs as directed by the Supervision Officer, and successfully completing the recommended course of treatment;
16. Abstain from the use of alcohol in any form;

Special programs:

17. Participate in and successfully complete a cognitive program and pay all costs as directed by the Supervision Officer;
18. Participate in and successfully complete an Anti-Theft program and pay all costs as directed by the Supervision Officer;
19. Submit to psychological/psychiatric evaluation within 90 days of this order as approved by the Supervision Officer and complete any treatment recommended as a result of that evaluation;

Waivers:

20. Waive the right to appeal and right to file or urge any motion for new trial;
21. Waive the right to any future due diligence claim;

Financial:

22. Support your dependents;
23. Pay the following amounts as described below, beginning the month next following the entry of Judgment until the total amount is paid:
    a. Restitution of $0.00;

b. Supervision fee of $50.00 per month (an additional $5.00 per month for the following offenses: Indecency with a Child, Sexual Assault, Aggravated Sexual Assault, Prohibited Sexual Conduct, Sexual Performance by a Child, Possession or Promotion of Child Pornography); waived while in jail, residential treatment center, or supervised out of state; in the event supervision is transferred to another state, immediately upon the receiving state's rejection or termination of supervision, the $50.00 per month supervision fee again becomes effective as stated above;
c. Court cost of $To Be Determined within thirty (30) days;
d. Fine of $10,000.00 within thirty (30) days – (all counts run concurrent);

If you contend that you are indigent and request permission to discharge fines, costs, or supervision fees by performing community service, the Community Supervision and Corrections Department (CSCD) is authorized to assess credit per the approved CSCD community service policy.
You are further ordered to comply with all future orders of the Court (You will be furnished with a copy of all such orders).

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

Signed this 28 day of November, A.D., 2011.

WITNESS: _____
Supervision Officer

_____
Judge Presiding

_____
Defendant

_____
Right Thumb

CASE NO. 366-81639-2011 COUNT 4
INCIDENT NO./TRN: 9191879361 TRS# D003

THE STATE OF TEXAS	§	IN THE 366TH DISTRICT COURT
V.	§	OF
SUZANNE H. WOOTEN	§	COLLIN COUNTY, TEXAS
STATE ID NO.: TX08702199	§	

JUDGMENT OF CONVICTION BY JURY/PUNISHMENT BY COURT

Judge Presiding:	HON. KERRY L. RUSSELL	Date Judgment Entered:	12/05/11
Attorney for State:	HARRY WHITE	Attorney for Defendant:	TOBY SHOOK & PETER SCHULTE

Offense for which Defendant Convicted:
BRIBERY

Charging Instrument: INDICTMENT	Statute for Offense: 36.02
Date of Offense: 02/14/2008	
Degree of Offense: SECOND DEGREE FELONY	Plea to Offense: Not Guilty
VERDICT of Jury: GUILTY	Findings on Deadly Weapon: N/A
Plea to 1st Enhancement Paragraph: N/A	Plea to 2nd Enhancement/Habitual Paragraph: N/A
Findings on 1st Enhancement Paragraph: N/A	Findings on 2nd Enhancement/Habitual Paragraph: N/A

Plea to Jurisdictional Paragraph: N/A

Findings on Jurisdictional Paragraph: N/A

Punished Assessed by:	Date Sentence Imposed:	Date Sentence to Commence:
COURT	NOVEMBER 28, 2011	NOVEMBER 28, 2011

Punishment and Place of Confinement: TEN Years TDCJ- INSTITUTIONAL DIVISION

THIS SENTENCE SHALL RUN CONCURRENTLY.

X SENTENCE OF CONFINEMENT SUSPENDED, DEFENDANT PLACED ON COMMUNITY SUPERVISION FOR TEN YEARS.

Fine:	Court Costs:	Restitution:	Restitution Payable to:
$10,000.00	$	0.00	N/A

Sex Offender Registration Requirements DO NOT APPLY to the Defendant. TEX. CODE CRIM. PROC. chapter 62.

Time Credited: N/A

ALL pertinent information, names and assessments indicated above are incorporated into the language of the judgment below by reference.

This cause was called for trial in Collin County, Texas. The State appeared by her District Attorney.

Counsel / Waiver of Counsel (select one)

X Defendant appeared in person with Counsel.

☐ Defendant knowingly, intelligently, and voluntarily waived the right to representation by counsel in writing in open court.

It appeared to the Court that Defendant was mentally competent and had pleaded as shown above to the charging instrument. Both parties announced ready for trial. A jury was selected, impaneled, and sworn. The INDICTMENT was read to the jury, and Defendant entered a plea to the charged offense. The Court received the plea and entered it of record.

The jury heard the evidence submitted and argument of counsel. The Court charged the jury as to its duty to determine the guilt or innocence of Defendant, and the jury retired to consider the evidence. Upon returning to open court, the jury delivered its verdict in the presence of Defendant and defense counsel, if any.

The Court received the verdict and ORDERED it entered upon the minutes of the Court.

Punishment Assessed by Jury / Court / No election (select one)

☐ **Jury.** Defendant entered a plea and filed a written election to have the jury assess punishment. The jury heard evidence relative to the question of punishment. The Court charged the jury and it retired to consider the question of punishment. After due deliberation, the jury was brought into Court, and, in open court, it returned its verdict as indicated above.

X **Court.** Defendant withdrew her jury election after the guilty verdicts on all counts and elected to have the Court assess punishment. After hearing evidence relative to the question of punishment, the Court assessed Defendant's punishment as indicated above.

☐ **No Election.** Defendant did not file a written election as to whether the judge or jury should assess punishment. After hearing evidence relative to the question of punishment, the Court assessed Defendant's punishment as indicated above.

The Court FINDS Defendant committed the above offense and **ORDERS, ADJUDGES AND DECREES** that Defendant is **GUILTY** of the above offense. The Court FINDS the Presentence Investigation, if so ordered, was done according to the applicable provisions of TEX. CODE CRIM. PROC. art. 42.12 § 9.

The Court ORDERS Defendant punished as indicated above. The Court ORDERS Defendant to pay all fines, court costs, and restitution as indicated above.

Punishment Options (select one)

X **Confinement in State Jail or Institutional Division.** The Court ORDERS the authorized agent of the State of Texas or the Sheriff of this County to take, safely convey, and deliver Defendant to the **Director, Institutional Division, TDCJ.** The Court ORDERS Defendant to be confined for the period and in the manner indicated above. The Court ORDERS Defendant remanded to the custody of the Sheriff of this county until the Sheriff can obey the directions of this sentence. The Court ORDERS that upon release from confinement, Defendant proceed immediately to the Collin County District Clerk's Office. Once there, the Court ORDERS Defendant to pay, or make arrangements to pay, any remaining unpaid fines, court costs, and restitution as ordered by the Court above.

☐ **County Jail—Confinement / Confinement in Lieu of Payment.** The Court ORDERS Defendant immediately committed to the custody of the Sheriff of Collin County, Texas on the date the sentence is to commence. Defendant shall be confined in the County Jail for the period indicated above. The Court ORDERS that upon release from confinement, Defendant shall proceed immediately to the Collin County District Clerk's Office. Once there, the Court ORDERS Defendant to pay, or make arrangements to pay, any remaining unpaid fines, court costs, and restitution as ordered by the Court above.

☐ **Fine Only Payment.** The punishment assessed against Defendant is for a FINE ONLY. The Court ORDERS Defendant to proceed immediately to the Office of the Collin County District Clerk. Once there, the Court ORDERS Defendant to pay or make arrangements to pay all fines and court costs as ordered by the Court in this cause.

Execution / Suspension of Sentence (select one)

☐ The Court ORDERS Defendant's sentence EXECUTED.

X The Court ORDERS Defendant's sentence of confinement SUSPENDED. The Court ORDERS Defendant placed on community supervision for the adjudged period (above) so long as Defendant abides by and does not violate the terms and conditions of community supervision. The order setting forth the terms and conditions of community supervision is incorporated into this judgment by reference.

The Court ORDERS that Defendant is given credit noted above on this sentence for the time spent incarcerated.

Signed and Ordered on This 6th Day of DECEMBER, 2011.

X _____
KERRY L. RUSSELL
JUDGE PRESIDING

Right Thumbprint:

COMMUNITY SUPERVISION ORDER-PLEAS OF GUILTY OR NOLO CONTENDERE-JURY WAIVED
NON CAPITAL CRIMINAL MINUTES OF THE 366TH DISTRICT COURT OF COLLIN COUNTY, TEXAS

THE STATE OF TEXAS NO: 366-81639-2011-CTIV

vs.

Suzanne H Wooten

TRN/TRS: 9191879361/D003

SID: 08702199

Adjudicated

ORDER SUSPENDING IMPOSITION OF SENTENCE AND PLACING DEFENDANT ON COMMUNITY SUPERVISION

Having suspended the imposition of punishment or having deferred adjudication of a finding in this case and having placed the defendant on community supervision in the above-entitled and numbered cause on the 28th day of November, 2011 for a period of 10 Years for the offense of Bribery the Court ORDERS the defendant, during this period of supervision, to comply with the following terms and conditions, to-wit: You will:

General:

1. Commit no offense against the laws of this or any State, or the United States;
2. Report to a Supervision Officer as scheduled by the Supervision Officer;
3. Permit the Supervision Officer to visit you at home or elsewhere;
4. Report any change in address, change of employment, or arrest to the Supervision Officer within 48 hours;
5. Remain within the supervising county unless permitted to depart by the Supervision Officer;
6. Provide a **DNA sample** pursuant to Subchapter G, Chapter 411, Government Code, for the purpose of creating a DNA record, unless the defendant has already submitted the required sample under other state law and **pay all costs associated**;
7. Perform 120.00 hours of community service work at the rate of 1hour per month managed and facilitated by such agencies as the Supervision Officer directs and pay all costs associated therewith, as directed by the Supervision Officer;
8. Have no contact with any co-defendants involved in this case;
9. Testify honestly about any co-defendant's participation in this case;
10. Within 24 hours, report to the Collin County Detention Facility at 4300 Community Avenue, McKinney, Texas, for the purpose of providing processing information;
11. Resign bench immediately;

Employment/Education:

12. Work faithfully at suitable employment insofar as possible;

Substance Abuse:

13. Not use marijuana, dangerous drugs, or any substance prohibited by the Texas Controlled Substances Act;
14. Submit a non-dilute random urine sample for testing and/or other approved medical test as directed by your supervision officer and pay for such testing. If directed by the Supervision Officer, call a designated number daily to determine the days that you shall submit a sample to determine the use of illicit drugs or alcohol;
15. Participate in the Treatment Alternatives to Incarceration Program (TAIP) by submitting to a substance abuse evaluation within 30 days, paying all costs as directed by the Supervision Officer, and successfully completing the recommended course of treatment;
16. Abstain from the use of alcohol in any form;

Special programs:

17. Participate in and successfully complete a cognitive program and pay all costs as directed by the Supervision Officer;
18. Participate in and successfully complete an Anti-Theft program and pay all costs as directed by the Supervision Officer;
19. Submit to psychological/psychiatric evaluation within 90 days of this order as approved by the Supervision Officer and complete any treatment recommended as a result of that evaluation;

Waivers:

20. Waive the right to appeal and right to file or urge any motion for new trial;
21. Waive the right to any future due diligence claim;

Financial:

22. Support your dependents;
23. Pay the following amounts as described below, beginning the month next following the entry of Judgment until the total amount is paid:
    a. Restitution of $0.00;

Defendant's Name: Suzanne H Wooten
Cause: 366-81639-2011-CTIV

b. Supervision fee of $50.00 per month (an additional $5.00 per month for the following offenses: Indecency with a Child, Sexual Assault, Aggravated Sexual Assault, Prohibited Sexual Conduct, Sexual Performance by a Child, Possession or Promotion of Child Pornography); waived while in jail, residential treatment center, or supervised out of state; in the event supervision is transferred to another state, immediately upon the receiving state's rejection or termination of supervision, the $50.00 per month supervision fee again becomes effective as stated above;
c. Court cost of $To Be Determined within thirty (30) days;
d. Fine of $10,000.00 within thirty (30) days – (all counts run concurrent);

If you contend that you are indigent and request permission to discharge fines, costs, or supervision fees by performing community service, the Community Supervision and Corrections Department (CSCD) is authorized to assess credit per the approved CSCD community service policy.
You are further ordered to comply with all future orders of the Court (You will be furnished with a copy of all such orders).

You are advised that under the laws of this State, the Court has determined and imposed the above terms and conditions of your community supervision, and may at any time during this period of supervision alter or modify them. The Court also has the authority, at any time during the period of community supervision to revoke your community supervision for any violation of the conditions of your supervision set out above. upon motion and hearing. (50)

Signed this 28 day of November, A.D., 2011.

WITNESS: _____
Supervision Officer

_____
Judge Presiding

_____
Defendant

_____
Right Thumb

CASE NO. 366-81639-2011 COUNT 5
INCIDENT NO./TRN: 9191879361 TRS# D004

THE STATE OF TEXAS	§	IN THE 366TH DISTRICT COURT
V.	§	OF
SUZANNE H. WOOTEN	§	COLLIN COUNTY, TEXAS
STATE ID No.: TX08702199	§	

JUDGMENT OF CONVICTION BY JURY/PUNISHMENT BY COURT

Judge Presiding:	HON. KERRY L. RUSSELL	Date Judgment Entered:	12/05/11
Attorney for State:	HARRY WHITE	Attorney for Defendant:	TOBY SHOOK & PETER SCHULTE

Offense for which Defendant Convicted:
BRIBERY

Charging Instrument: INDICTMENT	Statute for Offense: 36.02
Date of Offense: 02/26/2008	
Degree of Offense: SECOND DEGREE FELONY	Plea to Offense: Not Guilty
VERDICT of Jury: GUILTY	Findings on Deadly Weapon: N/A
Plea to 1st Enhancement Paragraph: N/A	Plea to 2nd Enhancement/Habitual Paragraph: N/A
Findings on 1st Enhancement Paragraph: N/A	Findings on 2nd Enhancement/Habitual Paragraph: N/A

Plea to Jurisdictional Paragraph: N/A

Findings on Jurisdictional Paragraph: N/A

Punished Assessed by: COURT	Date Sentence Imposed: NOVEMBER 28, 2011	Date Sentence to Commence: NOVEMBER 28, 2011

Punishment and Place of Confinement: TEN Years TDCJ- INSTITUTIONAL DIVISION

THIS SENTENCE SHALL RUN CONCURRENTLY.

X SENTENCE OF CONFINEMENT SUSPENDED, DEFENDANT PLACED ON COMMUNITY SUPERVISION FOR TEN YEARS.

Fine:	Court Costs:	Restitution:	Restitution Payable to:
$10,000.00	$	0.00	N/A

Sex Offender Registration Requirements DO NOT APPLY to the Defendant. TEX. CODE CRIM. PROC. chapter 62.

Time Credited: N/A

ALL pertinent information, names and assessments indicated above are incorporated into the language of the judgment below by reference.

This cause was called for trial in Collin County, Texas. The State appeared by her District Attorney.

Counsel / Waiver of Counsel (select one)

X Defendant appeared in person with Counsel.

☐ Defendant knowingly, intelligently, and voluntarily waived the right to representation by counsel in writing in open court.

It appeared to the Court that Defendant was mentally competent and had pleaded as shown above to the charging instrument. Both parties announced ready for trial. A jury was selected, impaneled, and sworn. The INDICTMENT was read to the jury, and Defendant entered a plea to the charged offense. The Court received the plea and entered it of record.

The jury heard the evidence submitted and argument of counsel. The Court charged the jury as to its duty to determine the guilt or innocence of Defendant, and the jury retired to consider the evidence. Upon returning to open court, the jury delivered its verdict in the presence of Defendant and defense counsel, if any.

The Court received the verdict and ORDERED it entered upon the minutes of the Court.

Punishment Assessed by Jury / Court / No election (select one)

☐ **Jury.** Defendant entered a plea and filed a written election to have the jury assess punishment. The jury heard evidence relative to the question of punishment. The Court charged the jury and it retired to consider the question of punishment. After due deliberation, the jury was brought into Court, and, in open court, it returned its verdict as indicated above.

X **Court.** Defendant withdrew her jury election after the guilty verdicts on all counts and elected to have the Court assess punishment. After hearing evidence relative to the question of punishment, the Court assessed Defendant's punishment as indicated above.

☐ **No Election.** Defendant did not file a written election as to whether the judge or jury should assess punishment. After hearing evidence relative to the question of punishment, the Court assessed Defendant's punishment as indicated above.

The Court FINDS Defendant committed the above offense and **ORDERS, ADJUDGES AND DECREES** that Defendant is **GUILTY** of the above offense. The Court FINDS the Presentence Investigation, if so ordered, was done according to the applicable provisions of TEX. CODE CRIM. PROC. art. 42.12 § 9.

The Court ORDERS Defendant punished as indicated above. The Court ORDERS Defendant to pay all fines, court costs, and restitution as indicated above.

Punishment Options (select one)

X **Confinement in State Jail or Institutional Division.** The Court ORDERS the authorized agent of the State of Texas or the Sheriff of this County to take, safely convey, and deliver Defendant to the **Director, Institutional Division, TDCJ.** The Court ORDERS Defendant to be confined for the period and in the manner indicated above. The Court ORDERS Defendant remanded to the custody of the Sheriff of this county until the Sheriff can obey the directions of this sentence. The Court ORDERS that upon release from confinement, Defendant proceed immediately to the Collin County District Clerk's Office. Once there, the Court ORDERS Defendant to pay, or make arrangements to pay, any remaining unpaid fines, court costs, and restitution as ordered by the Court above.

☐ **County Jail—Confinement / Confinement in Lieu of Payment.** The Court ORDERS Defendant immediately committed to the custody of the Sheriff of Collin County, Texas on the date the sentence is to commence. Defendant shall be confined in the County Jail for the period indicated above. The Court ORDERS that upon release from confinement, Defendant shall proceed immediately to the Collin County District Clerk's Office. Once there, the Court ORDERS Defendant to pay, or make arrangements to pay, any remaining unpaid fines, court costs, and restitution as ordered by the Court above.

☐ **Fine Only Payment.** The punishment assessed against Defendant is for a FINE ONLY. The Court ORDERS Defendant to proceed immediately to the Office of the Collin County District Clerk. Once there, the Court ORDERS Defendant to pay or make arrangements to pay all fines and court costs as ordered by the Court in this cause.

Execution / Suspension of Sentence (select one)

☐ The Court ORDERS Defendant's sentence EXECUTED.

X The Court ORDERS Defendant's sentence of confinement SUSPENDED. The Court ORDERS Defendant placed on community supervision for the adjudged period (above) so long as Defendant abides by and does not violate the terms and conditions of community supervision. The order setting forth the terms and conditions of community supervision is incorporated into this judgment by reference.

The Court ORDERS that Defendant is given credit noted above on this sentence for the time spent incarcerated.

Signed and Ordered on This 6th Day of DECEMBER, 2011.

X _____

KERRY L. RUSSELL
JUDGE PRESIDING

Right Thumbprint:

COMMUNITY SUPERVISION ORDER-PLEAS OF GUILTY OR NOLO CONTENDERE-JURY WAIVED
NON CAPITAL CRIMINAL MINUTES OF THE 366TH DISTRICT COURT OF COLLIN COUNTY, TEXAS

THE STATE OF TEXAS NO: 366-81639-2011-CTV

vs.

Suzanne H Wooten

TRN/TRS: 9191879361/D004

SID: 08702199

Adjudicated

ORDER SUSPENDING IMPOSITION OF SENTENCE AND PLACING DEFENDANT ON COMMUNITY SUPERVISION

Having suspended the imposition of punishment or having deferred adjudication of a finding in this case and having placed the defendant on community supervision in the above-entitled and numbered cause on the 28th day of November, 2011 for a period of 10 Years for the offense of Bribery the Court ORDERS the defendant, during this period of supervision, to comply with the following terms and conditions, to-wit: You will:

General:

1. Commit no offense against the laws of this or any State, or the United States;
2. Report to a Supervision Officer as scheduled by the Supervision Officer;
3. Permit the Supervision Officer to visit you at home or elsewhere;
4. Report any change in address, change of employment, or arrest to the Supervision Officer within 48 hours;
5. Remain within the supervising county unless permitted to depart by the Supervision Officer;
6. Provide a **DNA sample** pursuant to Subchapter G, Chapter 411, Government Code, for the purpose of creating a DNA record, unless the defendant has already submitted the required sample under other state law and **pay all costs associated**;
7. Perform 120.00 hours of community service work at the rate of 1 hour per month managed and facilitated by such agencies as the Supervision Officer directs and pay all costs associated therewith, as directed by the Supervision Officer;
8. Have no contact with any co-defendants involved in this case;
9. Testify honestly about any co-defendant's participation in this case;
10. Within 24 hours, report to the Collin County Detention Facility at 4300 Community Avenue, McKinney, Texas, for the purpose of providing processing information;
11. Resign bench immediately;

Employment/Education:

12. Work faithfully at suitable employment insofar as possible;

Substance Abuse:

13. Not use marijuana, dangerous drugs, or any substance prohibited by the Texas Controlled Substances Act;
14. Submit a non-dilute random urine sample for testing and/or other approved medical test as directed by your supervision officer and pay for such testing. If directed by the Supervision Officer, call a designated number daily to determine the days that you shall submit a sample to determine the use of illicit drugs or alcohol;
15. Participate in the Treatment Alternatives to Incarceration Program (TAIP) by submitting to a substance abuse evaluation within 30 days, paying all costs as directed by the Supervision Officer, and successfully completing the recommended course of treatment;
16. Abstain from the use of alcohol in any form;

Special programs:

17. Participate in and successfully complete a cognitive program and pay all costs as directed by the Supervision Officer;
18. Participate in and successfully complete an Anti-Theft program and pay all costs as directed by the Supervision Officer;
19. Submit to psychological/psychiatric evaluation within 90 days of this order as approved by the Supervision Officer and complete any treatment recommended as a result of that evaluation;

Waivers:

20. Waive the right to appeal and right to file or urge any motion for new trial;
21. Waive the right to any future due diligence claim;

Financial:

22. Support your dependents;
23. Pay the following amounts as described below, beginning the month next following the entry of Judgment until the total amount is paid:
    a. Restitution of $0.00;

b. Supervision fee of $50.00 per month (an additional $5.00 per month for the following offenses: Indecency with a Child, Sexual Assault, Aggravated Sexual Assault, Prohibited Sexual Conduct, Sexual Performance by a Child, Possession or Promotion of Child Pornography); waived while in jail, residential treatment center, or supervised out of state; in the event supervision is transferred to another state, immediately upon the receiving state's rejection or termination of supervision, the $50.00 per month supervision fee again becomes effective as stated above;
c. Court cost of $To Be Determined within thirty (30) days;
d. Fine of $10,000.00 within thirty (30) days – (all counts run concurrent);

If you contend that you are indigent and request permission to discharge fines, costs, or supervision fees by performing community service, the Community Supervision and Corrections Department (CSCD) is authorized to assess credit per the approved CSCD community service policy.
You are further ordered to comply with all future orders of the Court (You will be furnished with a copy of all such orders).

You are advised that under the laws of this State, the Court has determined and imposed the above terms and conditions of your community supervision, and may at any time during this period of supervision alter or modify them. The Court also has the authority, at any time during the period of community supervision to revoke your community supervision for any violation of the conditions of your supervision set out above. upon motion and hearing. (SW)

Signed this 28 day of November, A.D., 2011.

WITNESS: Jane Sanchez
Supervision Officer

Judge Presiding

Defendant

Right Thumb

CASE NO. 366-81639-2011 COUNT 6
INCIDENT NO./TRN: 9191879361 TRS# D005

THE STATE OF TEXAS	§	IN THE 366TH DISTRICT COURT
V.	§	OF
SUZANNE H. WOOTEN	§	COLLIN COUNTY, TEXAS
STATE ID NO.: TX08702199	§	

JUDGMENT OF CONVICTION BY JURY/PUNISHMENT BY COURT

Judge Presiding:	HON. KERRY L. RUSSELL	Date Judgment Entered:	12/05/11
Attorney for State:	HARRY WHITE	Attorney for Defendant:	TOBY SHOOK & PETER SCHULTE

Offense for which Defendant Convicted:
BRIBERY

Charging Instrument: INDICTMENT	Statute for Offense: 36.02
Date of Offense: 03/07/2008	
Degree of Offense: SECOND DEGREE FELONY	Plea to Offense: Not Guilty
VERDICT of Jury: GUILTY	Findings on Deadly Weapon: N/A
Plea to 1st Enhancement Paragraph: N/A	Plea to 2nd Enhancement/Habitual Paragraph: N/A
Findings on 1st Enhancement Paragraph: N/A	Findings on 2nd Enhancement/Habitual Paragraph: N/A

Plea to Jurisdictional Paragraph: N/A

Findings on Jurisdictional Paragraph: N/A

Punished Assessed by:	Date Sentence Imposed:	Date Sentence to Commence:
COURT	NOVEMBER 28, 2011	NOVEMBER 28, 2011

Punishment and Place of Confinement: TEN Years TDCJ- INSTITUTIONAL DIVISION

THIS SENTENCE SHALL RUN CONCURRENTLY.

X SENTENCE OF CONFINEMENT SUSPENDED, DEFENDANT PLACED ON COMMUNITY SUPERVISION FOR TEN YEARS.

Fine:	Court Costs:	Restitution:	Restitution Payable to:
$10,000.00	$	0.00	N/A

Sex Offender Registration Requirements DO NOT APPLY to the Defendant. TEX. CODE CRIM. PROC. chapter 62.

Time Credited: N/A

ALL pertinent information, names and assessments indicated above are incorporated into the language of the judgment below by reference.

This cause was called for trial in Collin County, Texas. The State appeared by her District Attorney.

Counsel / Waiver of Counsel (select one)

X Defendant appeared in person with Counsel.

☐ Defendant knowingly, intelligently, and voluntarily waived the right to representation by counsel in writing in open court.

It appeared to the Court that Defendant was mentally competent and had pleaded as shown above to the charging instrument. Both parties announced ready for trial. A jury was selected, impaneled, and sworn. The INDICTMENT was read to the jury, and Defendant entered a plea to the charged offense. The Court received the plea and entered it of record.

The jury heard the evidence submitted and argument of counsel. The Court charged the jury as to its duty to determine the guilt or innocence of Defendant, and the jury retired to consider the evidence. Upon returning to open court, the jury delivered its verdict in the presence of Defendant and defense counsel, if any.

The Court received the verdict and ORDERED it entered upon the minutes of the Court.

Punishment Assessed by Jury / Court / No election (select one)

☐ **Jury.** Defendant entered a plea and filed a written election to have the jury assess punishment. The jury heard evidence relative to the question of punishment. The Court charged the jury and it retired to consider the question of punishment. After due deliberation, the jury was brought into Court, and, in open court, it returned its verdict as indicated above.

X **Court.** Defendant withdrew her jury election after the guilty verdicts on all counts and elected to have the Court assess punishment. After hearing evidence relative to the question of punishment, the Court assessed Defendant's punishment as indicated above.

☐ **No Election.** Defendant did not file a written election as to whether the judge or jury should assess punishment. After hearing evidence relative to the question of punishment, the Court assessed Defendant's punishment as indicated above.

The Court FINDS Defendant committed the above offense and **ORDERS, ADJUDGES AND DECREES** that Defendant is **GUILTY** of the above offense. The Court FINDS the Presentence Investigation, if so ordered, was done according to the applicable provisions of TEX. CODE CRIM. PROC. art. 42.12 § 9.

The Court ORDERS Defendant punished as indicated above. The Court ORDERS Defendant to pay all fines, court costs, and restitution as indicated above.

Punishment Options (select one)

X **Confinement in State Jail or Institutional Division.** The Court ORDERS the authorized agent of the State of Texas or the Sheriff of this County to take, safely convey, and deliver Defendant to the **Director, Institutional Division, TDCJ.** The Court ORDERS Defendant to be confined for the period and in the manner indicated above. The Court ORDERS Defendant remanded to the custody of the Sheriff of this county until the Sheriff can obey the directions of this sentence. The Court ORDERS that upon release from confinement, Defendant proceed immediately to the Collin County District Clerk's Office. Once there, the Court ORDERS Defendant to pay, or make arrangements to pay, any remaining unpaid fines, court costs, and restitution as ordered by the Court above.

☐ **County Jail—Confinement / Confinement in Lieu of Payment.** The Court ORDERS Defendant immediately committed to the custody of the Sheriff of Collin County, Texas on the date the sentence is to commence. Defendant shall be confined in the County Jail for the period indicated above. The Court ORDERS that upon release from confinement, Defendant shall proceed immediately to the Collin County District Clerk's Office. Once there, the Court ORDERS Defendant to pay, or make arrangements to pay, any remaining unpaid fines, court costs, and restitution as ordered by the Court above.

☐ **Fine Only Payment.** The punishment assessed against Defendant is for a FINE ONLY. The Court ORDERS Defendant to proceed immediately to the Office of the Collin County District Clerk. Once there, the Court ORDERS Defendant to pay or make arrangements to pay all fines and court costs as ordered by the Court in this cause.

Execution / Suspension of Sentence (select one)

☐ The Court ORDERS Defendant's sentence EXECUTED.

X The Court ORDERS Defendant's sentence of confinement SUSPENDED. The Court ORDERS Defendant placed on community supervision for the adjudged period (above) so long as Defendant abides by and does not violate the terms and conditions of community supervision. The order setting forth the terms and conditions of community supervision is incorporated into this judgment by reference.

The Court ORDERS that Defendant is given credit noted above on this sentence for the time spent incarcerated.

Signed and Ordered on This 6th Day of DECEMBER, 2011.

X _____

KERRY L. RUSSELL
JUDGE PRESIDING

Right Thumbprint:

COMMUNITY SUPERVISION ORDER-PLEAS OF GUILTY OR NOLO CONTENDERE-JURY WAIVED
NON CAPITAL CRIMINAL MINUTES OF THE 366TH DISTRICT COURT OF COLLIN COUNTY, TEXAS

THE STATE OF TEXAS

NO: 366-81639-2011-CTVI

vs.

Suzanne H Wooten

TRN/TRS: 9191879361/D005

SID: 08702199

Adjudicated

ORDER SUSPENDING IMPOSITION OF SENTENCE AND PLACING DEFENDANT ON COMMUNITY SUPERVISION

Having suspended the imposition of punishment or having deferred adjudication of a finding in this case and having placed the defendant on community supervision in the above-entitled and numbered cause on the 28th day of November, 2011 for a period of 10 Years for the offense of Bribery the Court ORDERS the defendant, during this period of supervision, to comply with the following terms and conditions, to-wit: You will:

General:

1. Commit no offense against the laws of this or any State, or the United States;
2. Report to a Supervision Officer as scheduled by the Supervision Officer;
3. Permit the Supervision Officer to visit you at home or elsewhere;
4. Report any change in address, change of employment, or arrest to the Supervision Officer within 48 hours;
5. Remain within the supervising county unless permitted to depart by the Supervision Officer;
6. Provide a **DNA sample** pursuant to Subchapter G, Chapter 411, Government Code, for the purpose of creating a DNA record, unless the defendant has already submitted the required sample under other state law and **pay all costs associated;**
7. Perform 120.00 hours of community service work at the rate of 1 hour per month managed and facilitated by such agencies as the Supervision Officer directs and pay all costs associated therewith, as directed by the Supervision Officer;
8. Have no contact with any co-defendants involved in this case;
9. Testify honestly about any co-defendant's participation in this case;
10. Within 24 hours, report to the Collin County Detention Facility at 4300 Community Avenue, McKinney, Texas, for the purpose of providing processing information;
11. Resign bench immediately;

Employment/Education:

12. Work faithfully at suitable employment insofar as possible;

Substance Abuse:

13. Not use marijuana, dangerous drugs, or any substance prohibited by the Texas Controlled Substances Act;
14. Submit a non-dilute random urine sample for testing and/or other approved medical test as directed by your supervision officer and pay for such testing. If directed by the Supervision Officer, call a designated number daily to determine the days that you shall submit a sample to determine the use of illicit drugs or alcohol;
15. Participate in the Treatment Alternatives to Incarceration Program (TAIP) by submitting to a substance abuse evaluation within 30 days, paying all costs as directed by the Supervision Officer, and successfully completing the recommended course of treatment;
16. Abstain from the use of alcohol in any form;

Special programs:

17. Participate in and successfully complete a cognitive program and pay all costs as directed by the Supervision Officer;
18. Participate in and successfully complete an Anti-Theft program and pay all costs as directed by the Supervision Officer;
19. Submit to psychological/psychiatric evaluation within 90 days of this order as approved by the Supervision Officer and complete any treatment recommended as a result of that evaluation;

Waivers:

20. Waive the right to appeal and right to file or urge any motion for new trial;
21. Waive the right to any future due diligence claim;

Financial:

22. Support your dependents;
23. Pay the following amounts as described below, beginning the month next following the entry of Judgment until the total amount is paid:
    a. Restitution of $0.00;

b. Supervision fee of $50.00 per month (an additional $5.00 per month for the following offenses: Indecency with a Child, Sexual Assault, Aggravated Sexual Assault, Prohibited Sexual Conduct, Sexual Performance by a Child, Possession or Promotion of Child Pornography); waived while in jail, residential treatment center, or supervised out of state; in the event supervision is transferred to another state, immediately upon the receiving state's rejection or termination of supervision, the $50.00 per month supervision fee again becomes effective as stated above;
c. Court cost of $To Be Determined within thirty (30) days;
d. Fine of $10,000.00 within thirty (30) days – (all counts run concurrent);

If you contend that you are indigent and request permission to discharge fines, costs, or supervision fees by performing community service, the Community Supervision and Corrections Department (CSCD) is authorized to assess credit per the approved CSCD community service policy.
You are further ordered to comply with all future orders of the Court (You will be furnished with a copy of all such orders).

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

Signed this 28 day of November, A.D., 2011.

WITNESS: _____
Supervision Officer

_____
Judge Presiding

_____
Defendant

_____
Right Thumb

CASE NO. 366-81639-2011 COUNT 7
INCIDENT NO./TRN: 9191879361 TRS# D006

THE STATE OF TEXAS	§	IN THE 366TH DISTRICT COURT
V.	§	OF
SUZANNE H. WOOTEN	§	COLLIN COUNTY, TEXAS
STATE ID NO.: TX08702199	§	

JUDGMENT OF CONVICTION BY JURY/PUNISHMENT BY COURT

Judge Presiding:	HON. KERRY L. RUSSELL	Date Judgment Entered:	12/05/11
Attorney for State:	HARRY WHITE	Attorney for Defendant:	TOBY SHOOK & PETER SCHULTE

Offense for which Defendant Convicted:
BRIBERY

Charging Instrument: INDICTMENT	Statute for Offense: 36.02
Date of Offense: 03/14/2008	
Degree of Offense: SECOND DEGREE FELONY	Plea to Offense: Not Guilty
VERDICT of Jury: GUILTY	Findings on Deadly Weapon: N/A
Plea to 1st Enhancement Paragraph: N/A	Plea to 2nd Enhancement/Habitual Paragraph: N/A
Findings on 1st Enhancement Paragraph: N/A	Findings on 2nd Enhancement/Habitual Paragraph: N/A

Plea to Jurisdictional Paragraph: N/A

Findings on Jurisdictional Paragraph: N/A

Punished Assessed by:	Date Sentence Imposed:	Date Sentence to Commence:
COURT	NOVEMBER 28, 2011	NOVEMBER 28, 2011

Punishment and Place of Confinement: TEN Years TDCJ- INSTITUTIONAL DIVISION

THIS SENTENCE SHALL RUN CONCURRENTLY.

X SENTENCE OF CONFINEMENT SUSPENDED, DEFENDANT PLACED ON COMMUNITY SUPERVISION FOR TEN YEARS.

Fine:	Court Costs:	Restitution:	Restitution Payable to:
$10,000.00	$	0.00	N/A

Sex Offender Registration Requirements DO NOT APPLY **to the Defendant.** TEX. CODE CRIM. PROC. chapter 62.

Time Credited: N/A

ALL pertinent information, names and assessments indicated above are incorporated into the language of the judgment below by reference.

This cause was called for trial in Collin County, Texas. The State appeared by her District Attorney.

Counsel / Waiver of Counsel (select one)

X Defendant appeared in person with Counsel.

☐ Defendant knowingly, intelligently, and voluntarily waived the right to representation by counsel in writing in open court.

It appeared to the Court that Defendant was mentally competent and had pleaded as shown above to the charging instrument. Both parties announced ready for trial. A jury was selected, impaneled, and sworn. The INDICTMENT was read to the jury, and Defendant entered a plea to the charged offense. The Court received the plea and entered it of record.

The jury heard the evidence submitted and argument of counsel. The Court charged the jury as to its duty to determine the guilt or innocence of Defendant, and the jury retired to consider the evidence. Upon returning to open court, the jury delivered its verdict in the presence of Defendant and defense counsel, if any.

The Court received the verdict and ORDERED it entered upon the minutes of the Court.

Punishment Assessed by Jury / Court / No election (select one)

☐ **Jury.** Defendant entered a plea and filed a written election to have the jury assess punishment. The jury heard evidence relative to the question of punishment. The Court charged the jury and it retired to consider the question of punishment. After due deliberation, the jury was brought into Court, and, in open court, it returned its verdict as indicated above.

X **Court.** Defendant withdrew her jury election after the guilty verdicts on all counts and elected to have the Court assess punishment. After hearing evidence relative to the question of punishment, the Court assessed Defendant's punishment as indicated above.

☐ **No Election.** Defendant did not file a written election as to whether the judge or jury should assess punishment. After hearing evidence relative to the question of punishment, the Court assessed Defendant's punishment as indicated above.

The Court FINDS Defendant committed the above offense and **ORDERS, ADJUDGES AND DECREES** that Defendant is **GUILTY** of the above offense. The Court FINDS the Presentence Investigation, if so ordered, was done according to the applicable provisions of TEX. CODE CRIM. PROC. art. 42.12 § 9.

The Court ORDERS Defendant punished as indicated above. The Court ORDERS Defendant to pay all fines, court costs, and restitution as indicated above.

Punishment Options (select one)

X **Confinement in State Jail or Institutional Division.** The Court ORDERS the authorized agent of the State of Texas or the Sheriff of this County to take, safely convey, and deliver Defendant to the **Director, Institutional Division, TDCJ.** The Court ORDERS Defendant to be confined for the period and in the manner indicated above. The Court ORDERS Defendant remanded to the custody of the Sheriff of this county until the Sheriff can obey the directions of this sentence. The Court ORDERS that upon release from confinement, Defendant proceed immediately to the Collin County District Clerk's Office. Once there, the Court ORDERS Defendant to pay, or make arrangements to pay, any remaining unpaid fines, court costs, and restitution as ordered by the Court above.

☐ **County Jail—Confinement / Confinement in Lieu of Payment.** The Court ORDERS Defendant immediately committed to the custody of the Sheriff of Collin County, Texas on the date the sentence is to commence. Defendant shall be confined in the County Jail for the period indicated above. The Court ORDERS that upon release from confinement, Defendant shall proceed immediately to the Collin County District Clerk's Office. Once there, the Court ORDERS Defendant to pay, or make arrangements to pay, any remaining unpaid fines, court costs, and restitution as ordered by the Court above.

☐ **Fine Only Payment.** The punishment assessed against Defendant is for a FINE ONLY. The Court ORDERS Defendant to proceed immediately to the Office of the Collin County District Clerk. Once there, the Court ORDERS Defendant to pay or make arrangements to pay all fines and court costs as ordered by the Court in this cause.

Execution / Suspension of Sentence (select one)

☐ The Court ORDERS Defendant's sentence EXECUTED.

X The Court ORDERS Defendant's sentence of confinement SUSPENDED. The Court ORDERS Defendant placed on community supervision for the adjudged period (above) so long as Defendant abides by and does not violate the terms and conditions of community supervision. The order setting forth the terms and conditions of community supervision is incorporated into this judgment by reference.

The Court ORDERS that Defendant is given credit noted above on this sentence for the time spent incarcerated.

Signed and Ordered on This 6th Day of DECEMBER, 2011.

X _____

KERRY L. RUSSELL
JUDGE PRESIDING

Right Thumbprint;

COMMUNITY SUPERVISION ORDER-PLEAS OF GUILTY OR NOLO CONTENDERE-JURY WAIVED
NON CAPITAL CRIMINAL MINUTES OF THE 366TH DISTRICT COURT OF COLLIN COUNTY, TEXAS

THE STATE OF TEXAS NO: 366-81639-2011-CTVII

VS.

Suzanne H Wooten

TRN/TRS: 9191879361/D006

SID: 08702199

Adjudicated

ORDER SUSPENDING IMPOSITION OF SENTENCE AND PLACING DEFENDANT ON COMMUNITY SUPERVISION

Having suspended the imposition of punishment or having deferred adjudication of a finding in this case and having placed the defendant on community supervision in the above-entitled and numbered cause on the 28th day of November, 2011 for a period of 10 Years for the offense of Bribery the Court ORDERS the defendant, during this period of supervision, to comply with the following terms and conditions, to-wit: You will:

General:

1. Commit no offense against the laws of this or any State, or the United States;
2. Report to a Supervision Officer as scheduled by the Supervision Officer;
3. Permit the Supervision Officer to visit you at home or elsewhere;
4. Report any change in address, change of employment, or arrest to the Supervision Officer within 48 hours;
5. Remain within the supervising county unless permitted to depart by the Supervision Officer;
6. Provide a **DNA sample** pursuant to Subchapter G, Chapter 411, Government Code, for the purpose of creating a DNA record, unless the defendant has already submitted the required sample under other state law and **pay all costs associated**;
7. Perform 120.00 hours of community service work at the rate of 1 hour per month managed and facilitated by such agencies as the Supervision Officer directs and pay all costs associated therewith, as directed by the Supervision Officer;
8. Have no contact with any co-defendants involved in this case;
9. Testify honestly about any co-defendant's participation in this case;
10. Within 24 hours, report to the Collin County Detention Facility at 4300 Community Avenue, McKinney, Texas, for the purpose of providing processing information;
11. Resign bench immediately;

Employment/Education:

12. Work faithfully at suitable employment insofar as possible;

Substance Abuse:

13. Not use marijuana, dangerous drugs, or any substance prohibited by the Texas Controlled Substances Act;
14. Submit a non-dilute random urine sample for testing and/or other approved medical test as directed by your supervision officer and pay for such testing. If directed by the Supervision Officer, call a designated number daily to determine the days that you shall submit a sample to determine the use of illicit drugs or alcohol;
15. Participate in the Treatment Alternatives to Incarceration Program (TAIP) by submitting to a substance abuse evaluation within 30 days, paying all costs as directed by the Supervision Officer, and successfully completing the recommended course of treatment;
16. Abstain from the use of alcohol in any form;

Special programs:

17. Participate in and successfully complete a cognitive program and pay all costs as directed by the Supervision Officer;
18. Participate in and successfully complete an Anti-Theft program and pay all costs as directed by the Supervision Officer;
19. Submit to psychological/psychiatric evaluation within 90 days of this order as approved by the Supervision Officer and complete any treatment recommended as a result of that evaluation;

Waivers:

20. Waive the right to appeal and right to file or urge any motion for new trial;
21. Waive the right to any future due diligence claim;

Financial:

22. Support your dependents;
23. Pay the following amounts as described below, beginning the month next following the entry of Judgment until the total amount is paid:
    a. Restitution of $0.00;

b. Supervision fee of $50.00 per month (an additional $5.00 per month for the following offenses: Indecency with a Child, Sexual Assault, Aggravated Sexual Assault, Prohibited Sexual Conduct, Sexual Performance by a Child, Possession or Promotion of Child Pornography); waived while in jail, residential treatment center, or supervised out of state; in the event supervision is transferred to another state, immediately upon the receiving state's rejection or termination of supervision, the $50.00 per month supervision fee again becomes effective as stated above;
c. Court cost of $To Be Determined within thirty (30) days;
d. Fine of $10,000.00 within thirty (30) days – (all counts run concurrent);

If you contend that you are indigent and request permission to discharge fines, costs, or supervision fees by performing community service, the Community Supervision and Corrections Department (CSCD) is authorized to assess credit per the approved CSCD community service policy.
You are further ordered to comply with all future orders of the Court (You will be furnished with a copy of all such orders).

You are advised that under the laws of this State, the Court has determined and imposed the above terms and conditions of your community supervision, and may at any time during this period of supervision alter or modify them. The Court also has the authority, at any time during the period of community supervision to revoke your community supervision for any violation of the conditions of your supervision set out above. upon motion and hearing. SW

Signed this 28 day of November, A.D., 2011.

WITNESS: _____
Supervision Officer

_____
Judge Presiding

_____
Defendant

_____
Right Thumb

STATE OF TEXAS)
COUNTY OF COLLIN)

CASE NO. 366-81639-2011 COUNT 8
INCIDENT NO./TRN: 9191879361 TRS# D007

THE STATE OF TEXAS	§	IN THE 366TH DISTRICT COURT
	§	
v.	§	OF
	§	
SUZANNE H. WOOTEN	§	COLLIN COUNTY, TEXAS
	§	
STATE ID NO.: TX08702199		

JUDGMENT OF CONVICTION BY JURY/PUNISHMENT BY COURT

Judge Presiding:	HON. KERRY L. RUSSELL	Date Judgment Entered:	12/05/11
Attorney for State:	HARRY WHITE	Attorney for Defendant:	TOBY SHOOK & PETER SCHULTE

Offense for which Defendant Convicted:
MONEY LAUNDERING ($20,000 TO $100,000)

Charging Instrument: INDICTMENT	Statute for Offense: 34.02
Date of Offense: Between on or about 01/04/2008 and 03/14/2008	
Degree of Offense: THIRD DEGREE FELONY	Plea to Offense: Not Guilty
VERDICT of Jury: GUILTY	Findings on Deadly Weapon: N/A
Plea to 1st Enhancement Paragraph: N/A	Plea to 2nd Enhancement/Habitual Paragraph: N/A
Findings on 1st Enhancement Paragraph: N/A	Findings on 2nd Enhancement/Habitual Paragraph: N/A

Plea to Jurisdictional Paragraph: N/A

Findings on Jurisdictional Paragraph: N/A

Punished Assessed by: COURT	Date Sentence Imposed: NOVEMBER 28, 2011	Date Sentence to Commence: NOVEMBER 28, 2011

Punishment and Place of Confinement: TEN Years TDCJ- INSTITUTIONAL DIVISION

THIS SENTENCE SHALL RUN CONCURRENTLY.

X SENTENCE OF CONFINEMENT SUSPENDED, DEFENDANT PLACED ON COMMUNITY SUPERVISION FOR TEN YEARS.

Fine:	Court Costs:	Restitution:	Restitution Payable to:
$10,000.00	$	0.00	N/A

Sex Offender Registration Requirements DO NOT APPLY to the Defendant. TEX. CODE CRIM. PROC. chapter 62.

Time Credited: N/A

ALL pertinent information, names and assessments indicated above are incorporated into the language of the judgment below by reference.

This cause was called for trial in Collin County, Texas. The State appeared by her District Attorney.

Counsel / Waiver of Counsel (select one)

X Defendant appeared in person with Counsel.

☐ Defendant knowingly, intelligently, and voluntarily waived the right to representation by counsel in writing in open court.

It appeared to the Court that Defendant was mentally competent and had pleaded as shown above to the charging instrument. Both parties announced ready for trial. A jury was selected, impaneled, and sworn. The INDICTMENT was read to the jury, and Defendant entered a plea to the charged offense. The Court received the plea and entered it of record.

The jury heard the evidence submitted and argument of counsel. The Court charged the jury as to its duty to determine the guilt or innocence of Defendant, and the jury retired to consider the evidence. Upon returning to open court, the jury delivered its verdict in the presence of Defendant and defense counsel, if any.

The Court received the verdict and ORDERED it entered upon the minutes of the Court.

Punishment Assessed by Jury / Court / No election (select one)

☐ Jury. Defendant entered a plea and filed a written election to have the jury assess punishment. The jury heard evidence relative to the question of punishment. The Court charged the jury and it retired to consider the question of punishment. After due deliberation, the jury was brought into Court, and, in open court, it returned its verdict as indicated above.

X Court. Defendant withdrew her jury election after the guilty verdicts on all counts and elected to have the Court assess punishment. After hearing evidence relative to the question of punishment, the Court assessed Defendant's punishment as indicated above.

☐ No Election. Defendant did not file a written election as to whether the judge or jury should assess punishment. After hearing evidence relative to the question of punishment, the Court assessed Defendant's punishment as indicated above.

The Court FINDS Defendant committed the above offense and ORDERS, ADJUDGES AND DECREES that Defendant is GUILTY of the above offense. The Court FINDS the Presentence Investigation, if so ordered, was done according to the applicable provisions of TEX. CODE CRIM. PROC. art. 42.12 § 9.

The Court ORDERS Defendant punished as indicated above. The Court ORDERS Defendant to pay all fines, court costs, and restitution as indicated above.

Punishment Options (select one)

X **Confinement in State Jail or Institutional Division.** The Court ORDERS the authorized agent of the State of Texas or the Sheriff of this County to take, safely convey, and deliver Defendant to the **Director, Institutional Division, TDCJ.** The Court ORDERS Defendant to be confined for the period and in the manner indicated above. The Court ORDERS Defendant remanded to the custody of the Sheriff of this county until the Sheriff can obey the directions of this sentence. The Court ORDERS that upon release from confinement, Defendant proceed immediately to the Collin County District Clerk's Office. Once there, the Court ORDERS Defendant to pay, or make arrangements to pay, any remaining unpaid fines, court costs, and restitution as ordered by the Court above.

☐ **County Jail—Confinement / Confinement in Lieu of Payment.** The Court ORDERS Defendant immediately committed to the custody of the Sheriff of Collin County, Texas on the date the sentence is to commence. Defendant shall be confined in the County Jail for the period indicated above. The Court ORDERS that upon release from confinement, Defendant shall proceed immediately to the Collin County District Clerk's Office. Once there, the Court ORDERS Defendant to pay, or make arrangements to pay, any remaining unpaid fines, court costs, and restitution as ordered by the Court above.

☐ **Fine Only Payment.** The punishment assessed against Defendant is for a FINE ONLY. The Court ORDERS Defendant to proceed immediately to the Office of the Collin County District Clerk. Once there, the Court ORDERS Defendant to pay or make arrangements to pay all fines and court costs as ordered by the Court in this cause.

Execution / Suspension of Sentence (select one)

☐ The Court ORDERS Defendant's sentence EXECUTED.

X The Court ORDERS Defendant's sentence of confinement SUSPENDED. The Court ORDERS Defendant placed on community supervision for the adjudged period (above) so long as Defendant abides by and does not violate the terms and conditions of community supervision. The order setting forth the terms and conditions of community supervision is incorporated into this judgment by reference.

The Court ORDERS that Defendant is given credit noted above on this sentence for the time spent incarcerated.

Signed and Ordered on This 6th Day of DECEMBER, 2011.

X _____

KERRY L. RUSSELL
JUDGE PRESIDING

Right Thumbprint:

COMMUNITY SUPERVISION ORDER-PLEAS OF GUILTY OR NOLO CONTENDERE-JURY WAIVED
NON CAPITAL CRIMINAL MINUTES OF THE 366TH DISTRICT COURT OF COLLIN COUNTY, TEXAS

THE STATE OF TEXAS NO: 366-81639-2011-CTVIII

vs.

Suzanne H Wooten

TRN/TRS: 9191879361/D007

SID: 08702199

Adjudicated

ORDER SUSPENDING IMPOSITION OF SENTENCE AND PLACING DEFENDANT ON COMMUNITY SUPERVISION

Having suspended the imposition of punishment or having deferred adjudication of a finding in this case and having placed the defendant on community supervision in the above-entitled and numbered cause on the 28th day of November, 2011 for a period of 10 Years for the offense of Money Laundering >= $20k<$100k the Court ORDERS the defendant, during this period of supervision, to comply with the following terms and conditions, to-wit: You will:

General:

1. Commit no offense against the laws of this or any State, or the United States;
2. Report to a Supervision Officer as scheduled by the Supervision Officer;
3. Permit the Supervision Officer to visit you at home or elsewhere;
4. Report any change in address, change of employment, or arrest to the Supervision Officer within 48 hours;
5. Remain within the supervising county unless permitted to depart by the Supervision Officer;
6. Provide a **DNA sample** pursuant to Subchapter G, Chapter 411, Government Code, for the purpose of creating a DNA record, unless the defendant has already submitted the required sample under other state law and **pay all costs associated**;
7. Perform 120.00 hours of community service work at the rate of 1 hour per month managed and facilitated by such agencies as the Supervision Officer directs and pay all costs associated therewith, as directed by the Supervision Officer;
8. Have no contact with any co-defendants involved in this case;
9. Testify honestly about any co-defendant's participation in this case;
10. Within 24 hours, report to the Collin County Detention Facility at 4300 Community Avenue, McKinney, Texas, for the purpose of providing processing information;
11. Resign bench immediately;

Employment/Education:

12. Work faithfully at suitable employment insofar as possible;

Substance Abuse:

13. Not use marijuana, dangerous drugs, or any substance prohibited by the Texas Controlled Substances Act;
14. Submit a non-dilute random urine sample for testing and/or other approved medical test as directed by your supervision officer and pay for such testing. If directed by the Supervision Officer, call a designated number daily to determine the days that you shall submit a sample to determine the use of illicit drugs or alcohol;
15. Participate in the Treatment Alternatives to Incarceration Program (TAIP) by submitting to a substance abuse evaluation within 30 days, paying all costs as directed by the Supervision Officer, and successfully completing the recommended course of treatment;
16. Abstain from the use of alcohol in any form;

Special programs:

17. Participate in and successfully complete a cognitive program and pay all costs as directed by the Supervision Officer;
18. Participate in and successfully complete an Anti-Theft program and pay all costs as directed by the Supervision Officer;
19. Submit to psychological/psychiatric evaluation within 90 days of this order as approved by the Supervision Officer and complete any treatment recommended as a result of that evaluation;

Waivers:

20. Waive the right to appeal and right to file or urge any motion for new trial;
21. Waive the right to any future due diligence claim;

Financial:

22. Support your dependents;
23. Pay the following amounts as described below, beginning the month next following the entry of Judgment until the total amount is paid:
    a. Restitution of $0.00;

b. Supervision fee of $50.00 per month (an additional $5.00 per month for the following offenses: Indecency with a Child, Sexual Assault, Aggravated Sexual Assault, Prohibited Sexual Conduct, Sexual Performance by a Child, Possession or Promotion of Child Pornography); waived while in jail, residential treatment center, or supervised out of state; in the event supervision is transferred to another state, immediately upon the receiving state's rejection or termination of supervision, the $50.00 per month supervision fee again becomes effective as stated above;
c. Court cost of $To Be Determined within thirty (30) days;
d. Fine of $10,000.00 within thirty (30) days – (all counts run concurrent);

If you contend that you are indigent and request permission to discharge fines, costs, or supervision fees by performing community service, the Community Supervision and Corrections Department (CSCD) is authorized to assess credit per the approved CSCD community service policy.
You are further ordered to comply with all future orders of the Court (You will be furnished with a copy of all such orders).

You are advised that under the laws of this State, the Court has determined and imposed the above terms and conditions of your community supervision, and may at any time during this period of supervision alter or modify them. The Court also has the authority, at any time during the period of community supervision to revoke your community supervision for any violation of the conditions of your supervision set out above. upon motion and hearing. (SEE)

Signed this 28 day of November, A.D., 2011.

WITNESS: _____
Supervision Officer

_____
Judge Presiding

_____
Defendant

_____
Right Thumb

CASE NO. 366-81639-2011 COUNT 9
INCIDENT NO./TRN: 9191879361 TRS# D008

THE STATE OF TEXAS	§	IN THE 366TH DISTRICT COURT
V.	§	OF
SUZANNE H. WOOTEN	§	COLLIN COUNTY, TEXAS
STATE ID NO.: TX08702199	§	

JUDGMENT OF CONVICTION BY JURY/PUNISHMENT BY COURT

Judge Presiding:	HON. KERRY L. RUSSELL	Date Judgment Entered:	12/05/11
Attorney for State:	HARRY WHITE	Attorney for Defendant:	TOBY SHOOK & PETER SCHULTE

Offense for which Defendant Convicted:
TAMPERING WITH A GOVERNMENTAL RECORD TO DEFRAUD OR HARM

Charging Instrument: INDICTMENT	Statute for Offense: 37.10
Date of Offense: 04/09/2009	
Degree of Offense: STATE JAIL FELONY	Plea to Offense: Not Guilty
VERDICT of Jury: GUILTY	Findings on Deadly Weapon: N/A
Plea to 1st Enhancement Paragraph: N/A	Plea to 2nd Enhancement/Habitual Paragraph: N/A
Findings on 1st Enhancement Paragraph: N/A	Findings on 2nd Enhancement/Habitual Paragraph: N/A

Plea to Jurisdictional Paragraph: N/A

Findings on Jurisdictional Paragraph: N/A

Punished Assessed by: COURT	Date Sentence Imposed: NOVEMBER 28, 2011	Date Sentence to Commence: NOVEMBER 28, 2011

Punishment and Place of Confinement: TW0 Years TDCJ- STATE JAIL FACILITY

THIS SENTENCE SHALL RUN CONCURRENTLY.

X SENTENCE OF CONFINEMENT SUSPENDED, DEFENDANT PLACED ON COMMUNITY SUPERVISION FOR FIVE YEARS.

Fine:	Court Costs:	Restitution:	Restitution Payable to:
$10,000.00	$	0.00	N/A

Sex Offender Registration Requirements DO NOT APPLY to the Defendant. TEX. CODE CRIM. PROC. chapter 62.

Time Credited: N/A

ALL pertinent information, names and assessments indicated above are incorporated into the language of the judgment below by reference.

This cause was called for trial in Collin County, Texas. The State appeared by her District Attorney.

Counsel / Waiver of Counsel (select one)

X Defendant appeared in person with Counsel.

☐ Defendant knowingly, intelligently, and voluntarily waived the right to representation by counsel in writing in open court.

It appeared to the Court that Defendant was mentally competent and had pleaded as shown above to the charging instrument. Both parties announced ready for trial. A jury was selected, impaneled, and sworn. The INDICTMENT was read to the jury, and Defendant entered a plea to the charged offense. The Court received the plea and entered it of record.

The jury heard the evidence submitted and argument of counsel. The Court charged the jury as to its duty to determine the guilt or innocence of Defendant, and the jury retired to consider the evidence. Upon returning to open court, the jury delivered its verdict in the presence of Defendant and defense counsel, if any.

The Court received the verdict and ORDERED it entered upon the minutes of the Court.

Punishment Assessed by Jury / Court / No election (select one)

☐ **Jury.** Defendant entered a plea and filed a written election to have the jury assess punishment. The jury heard evidence relative to the question of punishment. The Court charged the jury and it retired to consider the question of punishment. After due deliberation, the jury was brought into Court, and, in open court, it returned its verdict as indicated above.

X **Court.** Defendant withdrew her jury election after the guilty verdicts on all counts and elected to have the Court assess punishment. After hearing evidence relative to the question of punishment, the Court assessed Defendant's punishment as indicated above.

☐ **No Election.** Defendant did not file a written election as to whether the judge or jury should assess punishment. After hearing evidence relative to the question of punishment, the Court assessed Defendant's punishment as indicated above.

The Court FINDS Defendant committed the above offense and **ORDERS, ADJUDGES AND DECREES** that Defendant is **GUILTY** of the above offense. The Court FINDS the Presentence Investigation, if so ordered, was done according to the applicable provisions of TEX. CODE CRIM. PROC. art. 42.12 § 9.

The Court ORDERS Defendant punished as indicated above. The Court ORDERS Defendant to pay all fines, court costs, and restitution as indicated above.

Punishment Options (select one)

X **Confinement in State Jail or Institutional Division.** The Court ORDERS the authorized agent of the State of Texas or the Sheriff of this County to take, safely convey, and deliver Defendant to the **Director, Institutional Division, TDCJ.** The Court ORDERS Defendant to be confined for the period and in the manner indicated above. The Court ORDERS Defendant remanded to the custody of the Sheriff of this county until the Sheriff can obey the directions of this sentence. The Court ORDERS that upon release from confinement, Defendant proceed immediately to the Collin County District Clerk's Office. Once there, the Court ORDERS Defendant to pay, or make arrangements to pay, any remaining unpaid fines, court costs, and restitution as ordered by the Court above.

☐ **County Jail—Confinement / Confinement in Lieu of Payment.** The Court ORDERS Defendant immediately committed to the custody of the Sheriff of Collin County, Texas on the date the sentence is to commence. Defendant shall be confined in the County Jail for the period indicated above. The Court ORDERS that upon release from confinement, Defendant shall proceed immediately to the Collin County District Clerk's Office. Once there, the Court ORDERS Defendant to pay, or make arrangements to pay, any remaining unpaid fines, court costs, and restitution as ordered by the Court above.

☐ **Fine Only Payment.** The punishment assessed against Defendant is for a FINE ONLY. The Court ORDERS Defendant to proceed immediately to the Office of the Collin County District Clerk. Once there, the Court ORDERS Defendant to pay or make arrangements to pay all fines and court costs as ordered by the Court in this cause.

Execution / Suspension of Sentence (select one)

☐ The Court ORDERS Defendant's sentence EXECUTED.

X The Court ORDERS Defendant's sentence of confinement SUSPENDED. The Court ORDERS Defendant placed on community supervision for the adjudged period (above) so long as Defendant abides by and does not violate the terms and conditions of community supervision. The order setting forth the terms and conditions of community supervision is incorporated into this judgment by reference.

The Court ORDERS that Defendant is given credit noted above on this sentence for the time spent incarcerated.

Signed and Ordered on This 6TH Day of DECEMBER, 2011.

X _____

KERRY L. RUSSELL
JUDGE PRESIDING

Right Thumbprint:

COMMUNITY SUPERVISION ORDER-PLEAS OF GUILTY OR NOLO CONTENDERE-JURY WAIVED
NON CAPITAL CRIMINAL MINUTES OF THE 366TH DISTRICT COURT OF COLLIN COUNTY, TEXAS

THE STATE OF TEXAS NO: 366-81639-2011-CTIX

vs.

Suzanne H Wooten

TRN/TRS: 9191879361/D008

SID: 08702199

Adjudicated

ORDER SUSPENDING IMPOSITION OF SENTENCE AND PLACING DEFENDANT ON COMMUNITY SUPERVISION

Having suspended the imposition of punishment or having deferred adjudication of a finding in this case and having placed the defendant on community supervision in the above-entitled and numbered cause on the 28th day of November, 2011 for a period of 5 Years for the offense of Tamper W/Govern Record Defraud/Harm the Court ORDERS the defendant, during this period of supervision, to comply with the following terms and conditions, to-wit: You will:

General:

1. Commit no offense against the laws of this or any State, or the United States;
2. Report to a Supervision Officer as scheduled by the Supervision Officer;
3. Permit the Supervision Officer to visit you at home or elsewhere;
4. Report any change in address, change of employment, or arrest to the Supervision Officer within 48 hours;
5. Remain within the supervising county unless permitted to depart by the Supervision Officer;
6. Provide a **DNA sample** pursuant to Subchapter G, Chapter 411, Government Code, for the purpose of creating a DNA record, unless the defendant has already submitted the required sample under other state law and **pay all costs associated**;
7. Perform 120.00 hours of community service work at the rate of 2 hours per month managed and facilitated by such agencies as the Supervision Officer directs and pay all costs associated therewith, as directed by the Supervision Officer;
8. Have no contact with any co-defendants involved in this case;
9. Testify honestly about any co-defendant's participation in this case;
10. Within 24 hours, report to the Collin County Detention Facility at 4300 Community Avenue, McKinney, Texas, for the purpose of providing processing information;
11. Resign bench immediately;

Employment/Education:

12. Work faithfully at suitable employment insofar as possible;

Substance Abuse:

13. Not use marijuana, dangerous drugs, or any substance prohibited by the Texas Controlled Substances Act;
14. Submit a non-dilute random urine sample for testing and/or other approved medical test as directed by your supervision officer and pay for such testing. If directed by the Supervision Officer, call a designated number daily to determine the days that you shall submit a sample to determine the use of illicit drugs or alcohol;
15. Participate in the Treatment Alternatives to Incarceration Program (TAIP) by submitting to a substance abuse evaluation within 30 days, paying all costs as directed by the Supervision Officer, and successfully completing the recommended course of treatment;
16. Abstain from the use of alcohol in any form;

Special programs:

17. Participate in and successfully complete a cognitive program and pay all costs as directed by the Supervision Officer;
18. Participate in and successfully complete an Anti-Theft program and pay all costs as directed by the Supervision Officer;
19. Submit to psychological/psychiatric evaluation within 90 days of this order as approved by the Supervision Officer and complete any treatment recommended as a result of that evaluation;

Waivers:

20. Waive the right to appeal and right to file or urge any motion for new trial;
21. Waive the right to any future due diligence claim;

Financial:

22. Support your dependents;
23. Pay the following amounts as described below, beginning the month next following the entry of Judgment until the total amount is paid:
    a. Restitution of $0.00;

b. Supervision fee of $50.00 per month (an additional $5.00 per month for the following offenses: Indecency with a Child, Sexual Assault, Aggravated Sexual Assault, Prohibited Sexual Conduct, Sexual Performance by a Child, Possession or Promotion of Child Pornography); waived while in jail, residential treatment center, or supervised out of state; in the event supervision is transferred to another state, immediately upon the receiving state's rejection or termination of supervision, the $50.00 per month supervision fee again becomes effective as stated above;
c. Court cost of $To Be Determined within thirty (30) days;
d. Fine of $10,000.00 within thirty (30) days – (all counts run concurrent);

If you contend that you are indigent and request permission to discharge fines, costs, or supervision fees by performing community service, the Community Supervision and Corrections Department (CSCD) is authorized to assess credit per the approved CSCD community service policy.
You are further ordered to comply with all future orders of the Court (You will be furnished with a copy of all such orders).

You are advised that under the laws of this State, the Court has determined and imposed the above terms and conditions of your community supervision, and may at any time during this period of supervision alter or modify them. The Court also has the authority, at any time during the period of community supervision to revoke your community supervision for any violation of the conditions of your supervision set out above. upon motion and hearing. (SW)

Signed this 28 day of November, A.D., 2011.

WITNESS: Jane Sanchez
Supervision Officer

Judge Presiding

Defendant

Right Thumb

NO. 366-81639-2011

THE STATE OF TEXAS	§	IN THE DISTRICT COURT
V.	§	366TH JUDICIAL DISTRICT
SUZANNE H. WOOTEN	§	COLLIN COUNTY, TEXAS

VERDICT

COUNT ONE
(Engaging in Organized Criminal Activity)

THE PRESIDING JUROR MAY ONLY SIGN ONE

"As to Count One, we, the Jury, find the defendant, Suzanne H. Wooten, guilty of engaging in Organized Criminal Activity by committing the offense of bribery, money laundering, or tampering with a government record, as alleged in the indictment."

_____
Presiding Juror

"As to Count One, we, the Jury, find the defendant, Suzanne H. Wooten, guilty of the lesser offense of Engaging in Organized Criminal Activity by conspiring to commit the offense of bribery, money laundering, or tampering with a government record."

RICHARD BILLINGS
Presiding Juror

"As to Count One, we, the Jury, find the defendant, Suzanne H. Wooten, not guilty."

Filed 11/22/11

_____
Presiding Juror

NO. 366-81639-2011

THE STATE OF TEXAS	§	IN THE DISTRICT COURT
V.	§	366TH JUDICIAL DISTRICT
SUZANNE H. WOOTEN	§	COLLIN COUNTY, TEXAS

VERDICT

COUNT TWO
(Bribery)

THE PRESIDING JUROR MAY ONLY SIGN ONE

"As to Count Two, we, the Jury, find the defendant, Suzanne H. Wooten, guilty of bribery, as alleged in the indictment."

RICHARD BILLINGS
Presiding Juror

"As to Count Two, we, the Jury, find the defendant, Suzanne H. Wooten, not guilty."

Presiding Juror

Filed 11/22/11

NO. 366-81639-2011

THE STATE OF TEXAS	§	IN THE DISTRICT COURT
V.	§	366TH JUDICIAL DISTRICT
SUZANNE H. WOOTEN	§	COLLIN COUNTY, TEXAS

VERDICT

COUNT THREE
(Bribery)

THE PRESIDING JUROR MAY ONLY SIGN ONE

"As to Count Three, we, the Jury, find the defendant, Suzanne H. Wooten, guilty of bribery, as alleged in the indictment."

RICHARD BILLINGS
Presiding Juror

"As to Count Three, we, the Jury, find the defendant, Suzanne H. Wooten, not guilty."

Presiding Juror

Filed 11/22/11

NO. 366-81639-2011

THE STATE OF TEXAS	§	IN THE DISTRICT COURT
V.	§	366TH JUDICIAL DISTRICT
SUZANNE H. WOOTEN	§	COLLIN COUNTY, TEXAS

VERDICT

COUNT FOUR
(Bribery)

THE PRESIDING JUROR MAY ONLY SIGN ONE

"As to Count Four, we, the Jury, find the defendant, Suzanne H. Wooten, guilty of bribery, as alleged in the indictment."

RICHARD BILLINGS
Presiding Juror

"As to Count Four, we, the Jury, find the defendant, Suzanne H. Wooten, not guilty."

Presiding Juror

Filed
11/22/11

NO. 366-81639-2011

THE STATE OF TEXAS	§	IN THE DISTRICT COURT
V.	§	366TH JUDICIAL DISTRICT
SUZANNE H. WOOTEN	§	COLLIN COUNTY, TEXAS

VERDICT

COUNT FIVE
(Bribery)

THE PRESIDING JUROR MAY ONLY SIGN ONE

"As to Count Five, we, the Jury, find the defendant, Suzanne H. Wooten, guilty of bribery, as alleged in the indictment."

RICHARD BILLINGS
Presiding Juror

"As to Count Five, we, the Jury, find the defendant, Suzanne H. Wooten, not guilty."

Presiding Juror

Filed 11/22/11
K. S. Russell

NO. 366-81639-2011

THE STATE OF TEXAS	§	IN THE DISTRICT COURT
V.	§	366TH JUDICIAL DISTRICT
SUZANNE H. WOOTEN	§	COLLIN COUNTY, TEXAS

VERDICT

COUNT SIX
(Bribery)

THE PRESIDING JUROR MAY ONLY SIGN ONE

"As to Count Six, we, the Jury, find the defendant, Suzanne H. Wooten, guilty of bribery, as alleged in the indictment."

RICHARD BILLING
Presiding Juror

"As to Count Six, we, the Jury, find the defendant, Suzanne H. Wooten, not guilty."

Presiding Juror

Filed
11/22/11

NO. 366-81639-2011

THE STATE OF TEXAS	§	IN THE DISTRICT COURT
V.	§	366TH JUDICIAL DISTRICT
SUZANNE H. WOOTEN	§	COLLIN COUNTY, TEXAS

VERDICT

COUNT SEVEN
(Bribery)

THE PRESIDING JUROR MAY ONLY SIGN ONE

"As to Count Seven, we, the Jury, find the defendant, Suzanne H. Wooten, guilty of bribery, as alleged in the indictment."

RICHARD BILLINGS
Presiding Juror

"As to Count Seven, we, the Jury, find the defendant, Suzanne H. Wooten, not guilty."

Presiding Juror

Filed 11-2-11
K. Rendall

NO. 366-81639-2011

THE STATE OF TEXAS	§	IN THE DISTRICT COURT
V.	§	366TH JUDICIAL DISTRICT
SUZANNE H. WOOTEN	§	COLLIN COUNTY, TEXAS

VERDICT

COUNT EIGHT
(Money Laundering)

THE PRESIDING JUROR MAY ONLY SIGN ONE

"As to Count Eight, we, the Jury, find the defendant, Suzanne H. Wooten, guilty of money laundering, as alleged in the indictment."

Presiding Juror

"As to Count Eight, we, the Jury, find the defendant, Suzanne H. Wooten, guilty of lesser offense of Money Laundering of the aggregate value of $20,000 or more but less than $100,000, as alleged under the indictment."

RICHARD BILLINGS
Presiding Juror

"As to Count Eight, we, the Jury, find the defendant, Suzanne H. Wooten, not guilty."

Filed 11/22/11

Presiding Juror

NO. 366-81639-2011

THE STATE OF TEXAS	§	IN THE DISTRICT COURT
V.	§	366TH JUDICIAL DISTRICT
SUZANNE H. WOOTEN	§	COLLIN COUNTY, TEXAS

VERDICT

COUNT NINE
(Tampering with a Government Record)

THE PRESIDING JUROR MAY ONLY SIGN ONE

"As to Count Nine, we, the Jury, find the defendant, Suzanne H. Wooten, guilty of tampering with a government record, as alleged in the indictment."

RICHARD BILLINGS
Presiding Juror

"As to Count Nine, we, the Jury, find the defendant, Suzanne H. Wooten, not guilty."

Presiding Juror

Filed
11/22/11

NO. 366-81639-2011

THE STATE OF TEXAS	§	IN THE DISTRICT COURT
V.	§	366TH JUDICIAL DISTRICT
SUZANNE H. WOOTEN	§	COLLIN COUNTY, TEXAS

WE HAVE REACHED A VERDICT.

RICHARD BILLINGS
Presiding Juror

Filed
11/22/11

NO. 366-81639-2011

SUZANNE H. WOOTEN	§	**IN THE DISTRICT COURT**
	§	
v.	§	**366TH JUDICIAL DISTRICT**
	§	
STATE OF TEXAS	§	**COLLIN COUNTY, TEXAS**

ORDER ON APPLICANT'S FIRST AMENDED 11.072 WRIT OF HABEAS CORPUS DECLARING ACTUAL INNOCENCE AS A MATTER OF LAW

FILED
2017 MAY 24 PM 1:45
LYNNE FINLEY
DISTRICT CLERK
COLLIN COUNTY, TX
BY _____ DEPUTY

Upon consideration of Suzanne H. Wooten's (Applicant) First Amended 11.072 Writ of Habeas Corpus Declaring Actual Innocence as a Matter of Law and the Response filed by the State of Texas where the State *agrees* that the relief requested should be granted, the Court hereby GRANTS the Applicant's requested relief.

The Court FINDS that the Texas Court of Criminal Appeals, in its decisions in *Stacy Stine Cary v. State*, 507 S.W.3d 750 (Tex. Crim. App. 2016) and in *David Cary v. State*, 507 S.W.3d 761 (Tex. Crim. App. 2016), acquitted those co-defendants in this case on all counts (which were substantially identical to the charges against the Applicant), finding the evidence presented legally insufficient because the allegations, even if true, were not crimes under Texas law. The Court FINDS that those Opinions by the highest criminal court in the State of Texas are directly relevant to the Applicant's case and require the Court to GRANT the relief requested.

The Court FURTHER FINDS that, in light of *Stacy Stine Cary v. State*, 507 S.W.3d 750 (Tex. Crim. App. 2016) and *David Cary v. State*, 507 S.W.3d 761 (Tex. Crim. App. 2016), the evidence presented at Applicant's trial was legally insufficient to convict her of the following nine (9) felony convictions: one (1) count of Conspiracy to Commit Engaging in Organized Criminal Activity, six (6) counts of Bribery, one (1) count of Money Laundering, and one (1) count of Tampering with a Governmental Record with Intent to Defraud/Harm. The Court therefore FINDS a violation of Applicant's due process rights.

DISTRICT COURT OF COLLIN COUNTY, TEXAS

Exhibit "C"

The Court FURTHER FINDS that Article 11.072 of the Texas Code of Criminal Procedure is the appropriate means for Applicant to obtain relief in this matter, as the Court of Criminal Appeals ruled on December 14, 2016, more than five years after Applicant was convicted of the charges listed above, that the allegations brought against Applicant in the Indictment, even if true, were not crimes under Texas law. An acquittal is therefore appropriate. *See generally Ex parte Perales*, 215 S.W.3d 418 (Tex. Crim. App. 2007). Because relief is granted, it is not necessary for the Court to review the "Supplemental Legal Challenges" alleged in the Applicant's Application. Therefore, those "Supplemental Legal Challenges" contained in the Application are denied.

THEREFORE, based upon these findings, IT IS ORDERED, DECREED, AND ADJUDGED that each and every of the nine (9) felony convictions of Applicant, the Honorable Suzanne H. Wooten, in this cause are immediately **VACATED**, that the convictions in this cause are void *ab initio*, and that the Applicant is **DECLARED, DECREED, AND ORDERED ACQUITTED OF EACH AND EVERY ALLEGATION CONTAINED IN THE INDICTMENT.** The State of Texas is FURTHER ORDERED that it is prohibited from any further prosecution of the Applicant based on the instant indictment. IT IS FURTHER ORDERED that any legal disabilities rendered against Applicant as a result of the convictions in this cause are VOID and ORDERED SET ASIDE and that the Applicant be immediately provided all release and relief from those legal disabilities.

IT IS SO ORDERED, this the 24th day of MAY, 2017.

HON. ANDREA STROH THOMPSON
JUDGE PRESIDING

DISTRICT COURT
OF COLLIN COUNTY

APPROVED AS TO FORM:

ADRIENNE McFARLAND
District Attorney Pro Tem
State Bar No. 13597375
Deputy Attorney General for Criminal Justice
Texas Attorney General's Office
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Austin, Texas 78711
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ATTORNEY FOR THE APPLICANT

STATE OF TEXAS)
COUNTY OF COLLIN)

I, Lynne Finley, District Clerk in and for Collin County Texas, do hereby certify that the above foregoing is a true and correct copy of the original document as the same appears on the file in the District Court, Collin County, Texas. Witness my hand and seal of said Court, this the 24 day of May A.D., 20 17

LYNNE FINLEY, DISTRICT CLERK
COLLIN COUNTY, TEXAS

_____ DEPUTY