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

IN THE MATTER OF
HELEN TYNE MAYFIELD
STATE BAR CARD NO. 24014721

§
§
§
§
§
§
§

CIVIL NO.42845

HELEN MAYFIELD'S MOTION FOR CONTINUANCE

NOW COMES HELEN TYNE MAYFIELD 24014721 WHO FILES THIS MOTION FOR CONTINUANCE in order to file a Bill of Review and complete the appeal process through the Writ of Habeas Corpus pending in federal court. My deadline for filing the Bill of Review is July 31, 2012. Other reasons for the continuance are listed below:

1. Petitioner needs time to obtain an attorney to represent her in the hearing. Petitioner has only been sent copies of order but has not received a petition to respond to as the original hearing was a default for which she was never served. The time and limited funds, other lawsuits and the Writ of Habeas Corpus left petitioner with limited time to obtain counsel. Several attorneys declined because of the shortness of the time.

2. When a party is not served with process, does not get notice of the default judgment, and has no other remedy available, the Constitution requires that the party be excused from showing a meritorious defense in a bill of review proceeding. Peralta v. Heights Medical Ctr., Inc., 485 U.S.80, 86-87(1988). The Fourteenth Amendment of the United States Constitution requires the result in Peralta because although the party may not prevail at trial, the party may lose other valuable rights such as settlement opportunities without being afforded

due process of law. Id. at 85. The Texas Supreme Court in Beck v. Beck, 771 S.W.2d 141, 142 (Tex. 1989), followed its decision in Baker and established that at the Baker pretrial hearing, the trial court may only consider whether the bill of review plaintiff made a prima facie showing of the meritorious lost opportunity (bill of review element one). Id. at 141.

3. Since Bill of Review is a direct appeal, TRE 609(e) applies as there is no final conviction until this appeal right is resolved.

4. TRE 609(e) indicates that the pendency of appeal makes the conviction not admissible as a final conviction. The rule does not state direct or collateral attack. If the state is using the conviction as the basis of its action then applicant is entitled to her day in court and a trial to collaterally attack the conviction. Gus Hodges, Collateral Attack on Judgments, The Texas Law Review, Vol. 41, (December 1962), Roger S. Braugh, Jr. Paul C. Sewell, Equitable Bill of Review: Unraveling the Cause of Action that confounds Texas Courts, 48 Baylor Law Rev. 623 1994. The Texas Courts committed such an error of law and violated the Texas and United States Constitutions in so doing that is of such importance to the state's jurisdiction and constitutional standards that it should be corrected or there should be a delay until a higher court reviews the matter. Tex. Gov't Code sec. 22.001(a)(6); sec. 22.001(a)(2)(e). There is no evidence proving essential allegations of the indictment of the subject matter jurisdiction in the base case which was the basis of the final judgment of conviction from which petitioner appealed. Moreover, all evidence was the product of warrantless searches without exigent circumstances or none were offered at trial. Petitioner never waived her objection as the stated did not comply with requests to present extraneous offenses prior to trial. Petitioner had two Motions in Limine which were granted and a running objection to the use of extraneous offenses which were never offered before trial. In a "direct attack" and a "collateral attack" in the same court as the base judgment, a "collateral attack" may be treated as a direct attack" Chapman v. Clark 262 S.W. 161 (Tex. App. 1924) Petitioner is requesting an opportunity to file a "Bill of Review" which is a direct attack; it is an equitable remedy designed to prevent manifest injustice. Criteria for bill of review usually include "due diligence;" exceptions are mistake, fraud, accident and "official error." Facts in this case qualify for at least one exception. The

prosecutor committed misconduct and fraud and perjury and the bank committed fraud in that it did not discloses that the checks were cashed on December 18, 2006 and withdrawn on December 23, 2007 and not January 2007 per the indictment. All of the information on the indictment was false and fraudulent and the bank or prosecutor altered the checks. The sworn testimony of the bank was that they did not know who altered the checks. They committed fraud and perjury as to when and who cashed the checks or handled the transaction. The bank also never cleared the checks with American Express. The prosecutor failed to prove a single element of the crime of forgery of a financial instrument as reported in the indictment or that Petitioner signed as though she were American Express. The fact that the police admitted in sworn testimony on the record and the prosecutor as well that the total source of evidence to support this conviction was obtained from warrantless searches for which there was no exigent circumstances tend to support the possibility of success of the Bill of Review and the additional stages of appeal.

5. Plaintiff will likely suffer irreparable injury if a continuance is not granted while the bill of review and appeal is pending. Under Texas law, when one is convicted of an intentional crime one is automatically disbarred and this is an irreparable injury . See Winter v. Natural Res. Def. Council, Inc., 555 U.S. 7, ____, 129 S. C. 365, 375 (2008); Qingdao Taifa Grp. Co. v. United States, 581 F.3d 1375, 1379-80 (Fed. Cir. 2009). Plaintiff has been convicted and incarcerated only to learn recently in her trial and another lawsuit in Harris County that the police in College Station and Brazos County had committed perjury to obtain the search warrant and never had an arrest warrant and lied and stated that they did. They then poisoned the jury pool by making perjured and false affidavits of alleged court records and "leaked" them to the news media. Plaintiff also learned on the last day of trial that the State Bar of Texas had placed false information on their website that plaintiff had been identified as a counterfeiter and no such identification had ever been made. Witnesses testified that they did not believe the petitioner was an attorney because of information found on the State Bar Website about the petitioner. Thus the State Bar of Texas contributed to the conviction. This harm to petitioner was irreparable. Additionally, during the trial, it was learned through evidence presented that the "attempt plagerism "

charge for which petitioner was convicted while in law school was a total falsity. Robert Schuwerk when contacted by the petitioner admitted that the law school deliberately falsified the record of petitioner by concealing the fact that she had graduated in August, 1986, a semester before the incident and the Honor Code did not apply to nonstudents. Petitioner was denied licensure for twelve years because of this incident, her student loans defaulted and her interest on those loans doubled because she was unable to obtain employment immediately after graduation. The harm to her reputation was irreparable. These false reports have been on the internet for over twenty five years and at all times the Law School knew the professor had given consent for assistance with the French translation. Moreover, there was never the paper of another which is necessary for plagerism. Now I must file lawsuits to set aside void judgments. The harm done to me and my family with these false allegations and convictions can never be undone. The evidence presented at trial by the prosecutor indicated that the officials at the Law School made a false report that everyone at the law school and in the class was required to have four years of a foreign language which was false. This was a total fraud by the law school to defeat my lawsuit to review the grade and Honor Court violation. If petitioner is disbarred she will be again unable to finance the lawsuits to reinstate her license because she has been unable to obtain employment because of the conviction. She will be forced to pay to set aside a void judgment for enforcement of an unconstitutional rule which is being applied in violation of the equal protection and due process clause of the Fourteenth Amendment of the United States Constitution. Applicants who are convicted and plea bargain or that are given probation are treated differently than those who are wrongly convicted and fight. Moreover, the officer appears per the documents presented by the News media to have committed perjury to obtain a search and arrest warrant or lied about an arrest warrant that was never issued.

6. There is no adequate remedy at law if a continuance is not granted. Petitioner recently was denied by the District Court the right to file a lawsuit without a filing fee to obtain her property and money that is currently being held by Brazos County and for violations of privacy and her Civil Rights for being held almost one year over the maximum sentence because the Texas

Court of Criminal appeals dismissed the Writ of Habeas Corpus without an order. This forced petitioner to file multiple lawsuits to obtain her property and obtain compensation for false imprisonment with funds that she does not have. See N. Cal. Power Agency v. Grace Geothermal Corp., 469 U.S. 1306, 1306 (1984); Wilson v. Ill. S. Ry. Co., 263 U.S.574, 576- 77 (1924); Winston v. Gen. Drivers, Warehousemen & Helpers Local Union No. 89 F. Supp. 719, 725 (W.D. Ky. 1995);

7. There is substantial likelihood that plaintiff will prevail on the merits even though it is not required per the Texas Supreme Court on a Bill of Review when the petitioner was never served with the petition because (1)the prosecutor fabricated crimes as extraneous offenses and he had no legal authority to do this under Texas law as only the legislature can make or establish crimes,(2) the police committed perjury to obtain a search and "arrest" warrant,(3) the police testified that they were working with the FBI and obtained the Suspicious Activity Report which was the basis of the search warrant from the FBI and the amended report they admitted in the Writ of Habeas Corpus hearing to reduce bond was a forgery.(4) The bank altered the checks cashed and committed perjury about the amount and times that the checks were cashed. (5) the judge of the 272nd District Court was the owner of the bank with his family and he did not recuse himself and appeared to be in a conspiracy with the judges of the 85th and 361st District Court to violate the civil rights of petitioner by having her home searched without a warrant to obtain evidence to support a warrant and then used this illegally obtained evidence to support the conviction; (6) the prosecutors appear to have coached witnesses to lie and committed witness tampering of petitioner's witness. (7) one of the judges of the 10th Court of Appeals was the first or second cousin of both of the court appointed attorneys and did not recuse himself even though there was the issue of ineffective assistance of counsel.(8) the court of appeals fabricated evidence to support its opinion evidenced by the court stating that the petitioner had cashed checks two years before. These (12 checks) were the only" counterfeit" checks that were ever cashed by petitioner and no checks except a retainer in a divorce which was a cashier's check drawn on Bank of America was presented in the trial

below and it was not a counterfeit check as the petitioner was present in the bank at the time of the purchase and cashing of the check in question. This was perjury and fabrication of evidence on the part of the prosecutor. (13) the prosecution of the petitioner appears to have been racially and sexually motivated as she was the only Black female court appointed attorney in Brazos County. The court appointed attorney stated that the District attorney told him that "she has been a crook all her life she just has not been caught" She is Black isn't she." (14) Witnesses testified that they did not believe the petitioner was an attorney based on the information on the State Bar of Texas website which indicated that petitioner had been identified as a counterfeiter. This was totally false and no evidence was produced that petitioner ever did anything except receive payments in the mail for her clients or loan payments for herself.(15) the prosecutor and judge suspended with the normal rules of evidence and the Texas and U.S. Constitutions and did not follow them. (16) once the officer testified under oath that he had been in the petitioner's home a week or more before a warrant was issued in order to obtain evidence to support a warrant and had found a large check which was the centerpiece of the state's case, the judge should have reversed himself on the motion to suppress as this was an admission of warrantless searches and the use of the illegally obtained evidence to support the conviction. (17) The prosecutor and police entered petitioner's home repeatedly in warrantless searches without probable cause in violation of the 4th Amendment of the U.S. Const. and admitted it when they filed a 404(b) Notice of Intent to use extraneous offenses by use of documents found in her car, office and home without a warrant on July 31, 2008 a day after the judgment was signed. (18) The police, FBI and others seized the $21000.00 that the clients sent on September 17,2007 for the checks and petitioner's expenses stating that they did not know themselves that the checks were not good. (19) the prosecutors and law enforcement had sole authority and control of the money gram, western union records and e-mail files and these files were concealed and altered so as to affect guilt. (20) the e-mail records would have exonerated the petitioner of all wrongdoing and the files were seized and concealed by the prosecution and law enforcement. (20) there are

more instances in which the trial was unfair and prejudicial that determined the petitioner would not receive a fair trial such as the suspension of the notice rules for the filing or presentation of evidence by the prosecution by the judge. And the refusal to allow the petitioner to give a full closing argument discussing the evidence. (21) the altering and tampering with the documents, motions, dates documents were filed by the clerks of Brazos County and the 10th Court of Appeals. (22) There was evidence of disparate treatment and discrimination in the State Bar Grievance Process and some tampering with evidence on the part of the State Bar with respect to several grievances. (23) Brazos County and the Court of Appeals have refused to allow petitioner to see the record below for the purposes of appeal and have altered materially the trial court record such that no review could be conducted to determine that reversible error had occurred. See Doran v. Salem Inn, Inc., 422 U.S.922, 931-32 (1975); Bluefield Water Ass'n v. City of Starkville, 577 F.3d 250, 252-53 (5th Circuit 2009);Hoechst Diafoil Co. v. Nan Ya Plastics Corp., 174 F. 3d 411, 417 (4th Cir. 1999). There is substantial likelihood of success outside the state system as this is an official oppression case on the part of the state and an arbitrary and capricious pursuit of a charge based on race and sex of the petitioner. The opinion of the court of Appeals that the petitioner was unreasonable to rely on banks and the IRS and her knowledge should be superior to theirs(IRS and Banks without any basis for this opinion) even though she has no expertise in these areas and had been a Social Worker all of her life was totally unreasonable and conclusory.

8. The harm faced by the plaintiff outweighs the harm that would be sustained by the defendant if the continuance is not granted. The plaintiff has lost her livelihood, her profession and her ability to care for herself and her son with her loss of license and ability to earn a living. There is no harm to the state in the delay of the proceeding until the appeal process of her constitutional claims. No court has ever ruled before that you may enter a home without a warrant without probable cause and then use what you find or distort what you find to prosecute. The fact that the state had dismissed the 42 counts which did not have a probable cause there was no exception to a warrant

established notwithstanding, plaintiff was held on a bond of a million dollars for checks found in her custody protected by attorney-client privilege that was seized without a warrant. If the state had made proper 404(b) motions, the petitioner could have challenged their admission based on warrantless searches. See Yakus v. United States, 321 U.S.414, 440 (1944); Coca-Coca Co. v. Purdy, 382 F.3d 774, 789 (8th Circuit 2004). The hardship on the petitioner if the Continuance is not granted is far outweighed by the short delay until the appeal process is complete.

9. The issuance of a continuance would not adversely affect the public interest. The interest of justice is far outweighed by a short delay until the appeal process is complete. In fact it would have a positive effect on the public interest to know that the judicial process works. See Abbott Labs. V. Sandoz, Inc., 544 F.3d 1341, 1362-63 (Fed Cir 2008); Davidoff & CIE, S.A. v. PLD Int'l Corp., 263 F.3d 1297, 1304 (11th Cir. 2001).

10. Plaintiff asks this court to grant a Continuance until the appeal is complete.

PRAYER

11. For these reasons, plaintiff asks that the Court do the following:

a. Grant the Continuance until the Bill of Review and other appeals have been concluded.

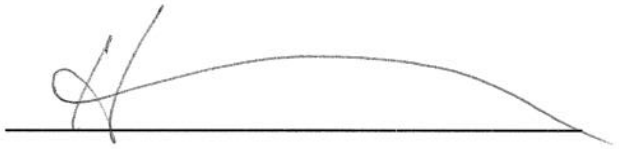
12. b. Grant any other relief it deems appropriate.

Respectfully Submitted,

Helen Mayfield, In Pro Per
4753 Redstart St.
Houston, Texas 77035
832-969-4135

CERTIFICATE OF SERVICE

I, hereby certify that the Disciplinary Counsel was served with a copy of the above motion by hand delivery on July 27, 2012.



Helen Mayfield