IN THE SUPREME COURT OF TEXAS

Misc. Docket No. 96-9033

CORRECTED ORDER nunc pro tunc

REQUEST TO TRANSFER CASE FROM THE ELEVENTH COURT OF APPEALS TO THE FOURTEENTH COURT OF APPEALS

ORDERED:

The request to return to the Fourteenth Court of Appeals, the following case previously ordered transferred to the Eleventh Court of Appeals from the Fourteenth Court of Appeals is denied.

NUMBER STYLE OF CASE

11-95-00270-CR Melvin Ray Williams v. The State of Texas

As ordered by the Supreme Court of Texas, in chambers,

with the Seal thereof affixed at the City of Austin, this 29th day of January, 1996.

T. ADAMS, CLERK JOH

SUPPREME COURT OF TEXAS



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JOHN T. ADAMS, CLERK SUPREME COURT OF TEXAS



THE SUPREME COURT OF TEXAS

POST OFFICE BOX 12248 AUSTIN, TEXAS 78711 TEL: (512) 463-1312

FAX: (512) 463-1365

CLERK JOHN T. ADAMS

EXECUTIVE ASS'T WILLIAM L. WILLIS

ADMINISTRATIVE ASS'T NADINE SCHNEIDER

CHIEF JUSTICE THOMAS R. PHILLIPS

JUSTICES RAUL A. GONZALEZ NATHAN L. HECHT JOHN CORNYN CRAIG ENOCH ROSE SPECTOR PRISCILLA R. OWEN JAMES A. BAKER GREG ABBOTT

February 15, 1996

Ms. Sherry Williamson, Clerk Eleventh Court of Appeals Post Office Box 271 Eastland, Texas 76448

RE: Request to Transfer Case (your ltr Jan. 17, 1996), Styled Melvin Ray Williams v. The State of Texas (11-95-00270-CR).

Dear Ms. Williamson,

The order of the Supreme Court of January 29, 1996 regarding the above request to transfer, is enclosed for your action as necessary.

Sincerely,

SIGNED

John T. Adams Clerk

cc: Frances M. Northcutt Charles Freeman John B. Holmes Hon. Caprice Cosper Charles Bacarisse



RECEIVED IN SUPREME COURT OF TEXAS

JAN 2 2 1995

Misc. Docket No. 96- 9033

WILLIAM G. (BUD) ARNOT, III CHIEF JUSTICE BOB DICKENSON JUSTICE JIM R. WRIGHT JUSTICE Court of Appeals JOHN T ADAMS, Clergherry WILLIAMSON

Eleventh District of Texas 100 WEST MAIN STREET P.O. BOX 271 EASTLAND, TEXAS 76448

AREA CODE 817 629-2638

CLERK

Deputy

January 17, 1996

John Adams, Clerk Supreme Court of Texas P. O. Box 12248 Capitol Station Austin, TX 78711

RE: Court of Appeals Number: 11-95-00270-CR Trial Court Case Number: 94-02140 Style: Williams, Melvin Ray v. The State of Texas

Dear Mr. Adams:

Enclosed please find Appellant's notice of lawyer and motion to transfer, filed in our Court on January 16, 1996, in the above cause. We are also enclosing a copy of our Court's order.

Pursuant to Miles v. Ford Motor Company, 39 Tex. Sup. C. J. 173, 174 fn.2 (December 22, 1995), we are forwarding this motion to your Court with our comment that this Court has no objection to this case being transferred back to the Fourteenth Court of Appeals in Houston, Texas.

Respectfully yours,

Sherry Williamson, Clerk

By: Diana Reynolds, Deputy

cc: Frances M. Northcutt Charles Freeman John B. Holmes Judge Caprice Cosper Charles Bacarisse, Harris County District Clerk

11th Court of Appeals

Eastland, Texas

Order

Melvin Ray Williams

Appellant

Vs. No. 11-95-270-CR -- Appeal from Harris County State of Texas

Appellee

Appellant was convicted by the 339th District Court in Harris County. He timely perfected an appeal to the Fourteenth Court of Appeals in Cause No. 14-95-516-CR. That appeal was transferred to this court as one of 50 cases the Texas Supreme Court transferred from the Fourteenth Court in its April 14, 1995, order. TEX. GOV'T CODE ANN. § 73.001 (Vernon 1988).

Appellant's attorney has filed in this court a motion to transfer our Cause No. 11-95-270-CR back to the Fourteenth Court of Appeals. The Supreme Court recently noted in Miles v. Ford Motor Company, 39 Tex. Sup. Ct. J. 173, 174 fn.2 (December 22, 1995), that:

The proper procedure for presenting a motion to transfer to this Court is as follows: The party requesting a transfer should file a copy of the motion to transfer in each of the two courts of appeals, asking that, when the motion is forwarded to the Supreme Court, each court of appeals advise the Supreme Court in writing whether it has any objection to the proposed transfer. Any briefs in favor of the proposed transfer should also be filed in each court of appeals and forwarded with the transfer motion. We will then have the motion, the briefs, and the comments of the two courts of appeals in determining whether to grant the motion to transfer.

Therefore, the motion to transfer filed in this court on January 16, 1996, is forwarded this day to the Texas Supreme Court. Appellant did not file a brief in support of his motion. This court has no objection to the appeal being transferred back to the Fourteenth Court of Appeals. The appeal is abated pending the action of the Texas Supreme Court on the motion to transfer.

PER CURIAM

January 17, 1996

Do not publish. See TEX.R.APP.P. 90.

ORIGINAL

100 West Main 54 HIJEOX 271 Eastland, TX 7644

IN THE COURT OF APPEALS ELEVENTH SUPREME JUDICIAL DISTRICT OF TEXAS AT EASTLAND

MELVIN WILLIAMS) (
) (🛛 😁		
V.) (NO.	11-95-00270-CR
) (
THE STATE OF TEXAS)(

AND IN THE COURT OF APPEALS FOURTEENTH SUPREME JUDICIAL DISTRICT OF TEXAS AT HOUSTON

MELVIN RAY WILLIAMS)(
V.)(NOS. 14-94-009	
)(14-95-005	16-CR
THE STATE OF TEXAS) (

APPELLANT'S NOTICE OF LAWYER OF RECORD AND MOTION TO TRANSFER To The Honorable Justices Of Said Courts:

COMES NOW Melvin Williams, Appellant in the above-entitled and -numbered causes, and notifies each Honorable Court that the undersigned lawyer represents Appellant on appeal of each cause and moves each Honorable Court to facilitate transfer of No. 11-95-00270-CR from the Court of Appeals for the Eleventh Supreme Judicial District of Texas at Eastland *back to* the Court of Appeals for the Fourteenth Supreme Judicial District of Texas at Houston; and, in support of this pleading shows:

Ι.

Appellant, who was found by the trial court to be indigent for appellate purposes and was also granted permission to file so-called interlocutory appeal with the undersigned lawyer appointed to represent him, filed an election to be punished as a so-called "state jail felony" according to our new penal code in The State of Texas v. Melvin Ray Williams, Cause No. 9402140 (No. 14-94-00916-CR), in the 339th Judicial District Court of Harris County, Texas File Dam K. IN COURT OF APPEALS Reiter, Judge Presiding, in prosecution for the felony offense of Torgery on 14

JAN 1 6 1996

SHERRY WILLIAMSON, CLERK Deputy

September 1994; such election was denied by the trial court on 14 September 1994; and, Appellant filed written notice of appeal in that cause on 14 September 1994.

II.

Appellant, who was found by the trial court to be indigent for appellate purposes, was convicted over his jurisdictional objection, by jury in The State of Texas v. Melvin Ray Williams, Cause No. 9402140 (Nos. 14-95-00516-CR and 11-95-00270-CR), Caprice Cosper, Judge Presiding, in the 339th Judicial District Court of Harris County, Texas, of the felony offense of forgery on 08 May 1995; was sentenced by that jury to thirty-three (33) years confinement in the Texas Department of Criminal Justice, Institutional Division (TDCJID), on 08 May 1995; and, filed written notices of appeal on 08 May 1995 as well as 01 June 1995.

III.

This motion is *not* made for purposes of delay, but rather, is made in the interest of judicial economy as well as to allow the undersigned lawyer to render effective assistance of counsel to Appellant and to eliminate confusion.

WHEREFORE, PREMISES CONSIDERED, Appellant prays that this Honorable Court will grant this motion, judicially notice that the undersigned lawyer represents Appellant on appeal of each cause and order the Clerk of each Honorable Court to immediately facilitate transfer of No. 11-95-00270-CR from the Court of Appeals for the Eleventh Supreme Judicial District of Texas at Eastland back to the Court of Appeals for the Fourteenth Supreme Judicial District at Houston.

Respectfully submitted,

CHARLES FREEMAN Lawyer for Appellant Texas Bar No. 07422600 P. O. Box 52818 Houston, Texas 77052-2818 713/747-7496 AFFIDAVITS OF APPELLANT AND FREEMAN

STATE OF TEXAS)(
) (
COUNTY OF HARRIS) (

BEFORE ME, THE UNDERSIGNED AUTHORITY, on this date personally appeared MELVIN RAY WILLIAMS, who, being by me duly sworn, did depose and state upon his oath as follows:

"My name is MELVIN RAY WILLIAMS. I am Appellant in the above-entitled and numbered causes. I have read the above and foregoing pleading and hereby swear that each and every allegation of fact contained therein is absolutely true and correct based upon my personal knowledge."

MELVIN RAY WILLIAMS Appellant

19 19 NOEM: PEREZ Notarv Public, State of Texas MV Controlssion Expires AUGUST 15, 1998.	this <u>114</u> day of <u>Janan</u> , Notary Public In And For The State Of Texas My Commission Expires:
STATE OF TEXAS	
COUNTY OF HARRIS)()(

BEFORE ME, THE UNDERSIGNED AUTHORITY, on this date personally appeared CHARLES FREEMAN, who, being by me duly sworn, did depose and state upon his oath as follows:

"My name is CHARLES FREEMAN. I am lawyer for Appellant in the aboveentitled and -numbered causes. I have read the above and foregoing pleading and hereby swear that each and every allegation of fact contained therein is absolutely true and correct based upon my personal knowledge."

CHARLES FREEMAN	
Lawyer for Appellant-PRO BONO	
SUBSCRIBED AND SWORN TO BEFORE ME this May of 1996. History Public STATE OF TEXAS My Commission Exp. 2-5-98 My Commission Expires:	,
THIS OPPTICIES that we call in the commission Explicit.	

THIS CERTIFIES that a copy of this pleading was served on the State upon filing.



Court of Appeals

Eleventh District of Texas 100 WEST MAIN STREET P.O. BOX 271 EASTLAND, TEXAS 76448

January 17, 1996

WILLIAM G. (BUD) ARNOT, III CHIEF JUSTICE BOB DICKENSON JUSTICE JIM R. WRIGHT JUSTICE

> Frances M. Northcutt Attorneys at Law 1001 Texas Avenue Suite 500 Houston, TX 77002

Charles Freeman Attorney at Law P. O. Box 52818 Houston, TX 77052-0818

John B. Holmes District Attorney Attn: Appellate Section 201 Fannin Street, Suite 200 Houston, TX 77002

RE: Court of Appeals Number: 11-95-00270-CR Trial Court Case Number: 94-02140 Style: Williams, Melvin Ray v. The State of Texas

Dear Counsel:

Please be advised that our Court has this day ABATED the appeal in the above cause. We enclose a copy of our Court's order.

Appellant's notice of lawyer and motion to transfer has this day been forwarded to the Texas Supreme Court in the above cause.

Respectfully yours,

Sherry Williamson, Clerk

By: Diana Reynolds, Deputy

cc: John Adams, Clerk Judge Caprice Cosper Charles Bacarisse, Harris County District Clerk SHERRY WILLIAMSON

AREA CODE 817 629-2638