

**BEFORE THE GOVERNOR OF THE STATE OF TEXAS  
AND  
THE TEXAS BOARD OF PARDONS AND PAROLES**

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In re

**Robert Lynn Pruett,**

Petitioner.

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**APPLICATION FOR COMMUTATION OF SENTENCE TO  
LIFE OR, IN THE ALTERNATIVE, A 120-DAY REPREIVE**

**AND**

**REQUEST FOR HEARING PURSUANT TO  
37 Texas Administrative Code § 143.43(f)(3) and  
Administrative Procedures Act § 2001.001 et seq.**

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[T]his case is riddled with problems . . . : junk science, inmate testimony, and lack of discovery.

*Ex parte Pruett*, 458 S.W.3d 537, 539 (Tex. Crim. App. 2015) (Alcala, J., dissenting).

Robert Pruett respectfully requests that this Board recommend to the Governor that his sentence be commuted to life. Because there is substantial evidence to support his claim of innocence, it would be a grave injustice to allow his execution. Alternatively, Pruett requests the Board recommend a 120-day reprieve, to allow him the time needed to pursue previously ordered testing that could conclusively establish his innocence of Daniel Nagle's murder.

Since being convicted of capital murder and sentenced to death in the 156th District Court of Bee County in April 2002, Robert Pruett has consistently maintained his innocence. There is no physical evidence that connects Robert Pruett to the murder of Officer Daniel Nagle. Recent DNA analysis of epithelial cells deposited on the weapon used to kill Nagle has revealed a DNA profile that belongs neither to Robert Pruett nor to Daniel Nagle. It is reasonably probable that this partial profile belongs to the person who actually killed Officer Nagle, yet the State now seeks to execute Pruett without performing the analysis that

could confirm whether this profile was deposited by Nagle's killer and could possibly reveal the identity of the killer.

Mr. Pruett would of course not be seeking clemency if the courts had recognized his powerful claim of actual innocence. At the time this petition is being submitted, the issue of Mr. Pruett's actual innocence is still being litigated. However, it is important to emphasize that the legal standard employed by the courts is not the same standard this Board is required to apply. Under both state and federal law, Mr. Pruett must meet an extraordinarily high standard that even many people who are actually innocent cannot meet. This Board is not constrained by such a burden. The members of this Board may ask themselves a different question: whether, if they were jurors in this case, they would have even convicted Pruett, much less sentenced him to death. Given what we know about wrongful convictions, given what we know about the number of men – both nationwide and especially in Texas – who have been sent to death row and have later been found to have committed no crime, it is undeniable that the risk of executing an

innocent man is a significant concern.<sup>1</sup> This case presents that very concern. As discussed in more detail below, there is no physical evidence whatsoever – none – connecting Mr. Pruett to this terrible crime. And further, although Mr. Pruett had no motive to commit this crime, others did. The risk of a wrongful execution in this case is intolerably high. The members of this Board are uniquely positioned to prevent that tragic result.

**Robert Pruett was born into a dysfunctional family.**

Robert Pruett’s father, Howard “Sam” Pruett was first incarcerated at seventeen for automobile theft.<sup>2</sup> He later met Robert’s mother, Marcia. The two married in 1968 and had their first son, Steven, in 1969.<sup>3</sup> Just one year later, Sam was arrested for burglary and incarcerated for two and a half years.<sup>4</sup> During this time Marcia Pruett had a daughter, Tammie, with another man. After being released for only a few months, Sam was incarcerated again for four

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<sup>1</sup> See Death Penalty Information Center, <http://deathpenaltyinfo.org/documents/FactSheet.pdf> (reporting 155 people (13 from Texas) having been released from death row since 1973 based on evidence of innocence).

<sup>2</sup> Exhibit A (Affidavit of Sam Pruett) at para. 3.

<sup>3</sup> Exhibit A at para. 3.

<sup>4</sup> Exhibit A at para. 3.

years in 1974.<sup>5</sup> A few months after Sam was released from this four-year incarceration, Marcia became pregnant with Robert.<sup>6</sup> One evening not long after Marcia became pregnant with Robert, Sam told her that he was going to a bar but instead proceeded to go on a two-week cross-country crime spree, abandoning his wife and his children. Sam was apprehended in Arizona, tried and convicted for crimes committed in Missouri, and incarcerated in Missouri for seven years.<sup>7</sup>

**Robert Pruett's early childhood was  
one of horrendous abuse and abject poverty.**

With Sam in prison, Marcia Pruett was the sole provider for her three children – eldest son Steven, daughter Tammie, and a just-born Robert. However, with no job and only a disability check for income, she was incapable of covering all the family's expenses and was without the means to provide a safe environment for her children.

Sam asked Robert Sutton, a friend of his from prison, to assist the family. Sam, in fact, named his youngest son after Sutton. Robert, Tammie, and Steven referred to Sutton as “grandpa” and slept in his van with Marcia and Sutton during periods when the family was

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<sup>5</sup> Exhibit A at para. 4.

<sup>6</sup> Exhibit A at para. 5.

<sup>7</sup> Exhibit A at para. 5.

homeless – which was a great deal of the time.<sup>8</sup> With no money to buy food, the family was forced to pillage through dumpsters.<sup>9</sup> At times, Marcia and Sutton could scrape together enough money to rent an apartment, but an eviction notice would always soon follow because there was never enough money to afford a second month's rent. In between apartments, the family would sleep in parks – either inside or outside of Sutton's van.<sup>10</sup> Even when they had a roof over their heads, there was never money for utilities.<sup>11</sup> As a result, the family bathed using buckets of water filled from hoses outside of restaurants.<sup>12</sup> Believing no one would suspect a child of shoplifting, Pruett's mother forced him to steal groceries when he was as young as four.<sup>13</sup>

Later, Marcia began prostituting herself for money. She also allowed men to molest her daughter, Tammie, when Tammie was as young as two. When Tammie was two, Marcia let a boyfriend of hers named Eddie molest Tammie.<sup>14</sup> In exchange, Eddie would give Marcia money or drugs. Marcia allowed this to happen until Tammie was

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<sup>8</sup> Exhibit B (Affidavit of Marcia Pruett) at para. 7.

<sup>9</sup> Exhibit B at para. 5.

<sup>10</sup> Exhibit B at para. 6.

<sup>11</sup> Exhibit C (Affidavit of Christine Henson) at para. 9.

<sup>12</sup> Exhibit B at para. 4.

<sup>13</sup> Exhibit C at para. 8.

<sup>14</sup> Exhibit E (Affidavit of Tammie Pruett) at para. 2.



eleven years old.<sup>15</sup> By the time Tammie was in her early teens, Marcia began selling her to other men.<sup>16</sup> Tammie's cousin Mike also molested her. Tammie became pregnant with Mike's child. Child Protective Services eventually removed Tammie from the family.

Marcia also allowed men, including Robert Sutton, to molest Robert and his brother Steven in exchange for money.<sup>17</sup> Marcia also molested Robert, sometimes alone and sometimes with her boyfriends.<sup>18</sup> Christine Henson, Robert's aunt, witnessed Marcia playing with Robert's penis during diaper changes.<sup>19</sup> When he was five, he told his cousin Nancy Scott that his mother and her friends would suck on each other's breasts in front of him.<sup>20</sup> Marcia often took Robert into her bedroom with her and locked the door<sup>21</sup> and would force him to get into her bed with her with no clothes on.<sup>22</sup> Sexually abusing their children was not something that was uncommon in the extended Pruett family. Robert's aunts and uncles often joked about molesting their children –

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<sup>15</sup> Exhibit E at para. 2; Exhibit C at para. 6.

<sup>16</sup> Exhibit D (Affidavit of Nancy Scott) at para. 4.

<sup>17</sup> Exhibit D at para. 6; Exhibit E at para. 7; Exhibit C at para. 7.

<sup>18</sup> Exhibit C at para. 5; Exhibit I (Affidavit of Bonnie McLain) at para. 5

<sup>19</sup> Exhibit C at para. 5.

<sup>20</sup> Exhibit D at para. 3.

<sup>21</sup> Exhibit D at para. 3.

<sup>22</sup> Exhibit G (Affidavit of Troy McLain) at para. 4.

Pruett's cousins.<sup>23</sup>

Marcia first introduced Robert to marijuana when he was only three.<sup>24</sup> Robert was too young to smoke it by himself, so his mother blew the smoke in his face.

**Robert's life is made even  
worse by his father's release from prison.**

His father, Sam, was released from jail when Robert was seven. Sam smoked marijuana with seven-year-old Robert every day.<sup>25</sup> By the time Robert was nine years old, his parents had him roll their joints, a skill he was taught when he was five.<sup>26</sup> On most days, he went to elementary school while high.<sup>27</sup> When Robert was ten, his parents introduced him to cocaine (to which the rest of the family had been addicted for some time).<sup>28</sup>

On one occasion, Robert's extended family went on a lake trip to celebrate Sam's release from prison. During this trip, Steven woke up to

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<sup>23</sup> Exhibit H (Affidavit of Michelle Perrault) at para. 8; Exhibit L (Affidavit of Tommy Henson) at para. 6.

<sup>24</sup> Exhibit F at para. 6; Exhibit I at para. 4.

<sup>25</sup> Exhibit A at para. 7; Exhibit E at para. 8; Exhibit G at para. 11; Exhibit J (Affidavit of Steven Pruett) at para. 4; Exhibit M (Affidavit of Donnie Creed) at para. 5.

<sup>26</sup> Exhibit B at para. 9; Exhibit F at para. 6.

<sup>27</sup> Exhibit B at para. 10.

<sup>28</sup> Exhibit H at para. 4.

find his uncle Dewey (Sam's brother) molesting him.<sup>29</sup> Sam chased Dewey out of the campground with a knife, threatening to stab him.<sup>30</sup>

Though he sometimes found work in the salvage yard or trimming trees, Sam never came close to making enough money to support his family.<sup>31</sup> What little money he earned was used to buy drugs. Because the Pruetts could not afford a house of their own, they often lived with other relatives, frequently cramming as many as eleven people into a trailer.<sup>32</sup> The family moved frequently as a result of being evicted, or because Sam needed to flee from authorities. The family often absconded in the middle of the night to avoid being caught by landlords.<sup>33</sup> As a result of the instability, Robert attended over eleven different schools. With no other alternative throughout his childhood, Robert and his family continued to pillage through dumpsters for food. Robert and his cousins also resorted to shoplifting in order to raise money for their families.<sup>34</sup> Sam and Marcia sent Robert and his siblings to the street to beg for money and would often use the money to buy

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<sup>29</sup> Exhibit G at para. 6; Exhibit J at para. 7.

<sup>30</sup> Exhibit G at para. 6.

<sup>31</sup> Exhibit K (Affidavit of Bill Pruet) at para. 4.

<sup>32</sup> Exhibit G at para. 2.

<sup>33</sup> Exhibit E at para. 9.

<sup>34</sup> Exhibit B at para. 5; Exhibit C at para. 8.

drugs instead of food.<sup>35</sup>

**Sam Pruett is an extremely violent man.**

Sam Pruett is a very violent man. When Robert was young, Sam dragged him out from under a car he was working on and across a bed of nails because Sam was annoyed that Robert was complaining about having to work on the vehicle.<sup>36</sup> According to Troy McLain, Robert needed stitches after this incident, but his father would not take him to the hospital. According to Tammie, Sam regularly hit Robert with a broom across his back. This would happen at least once a week.<sup>37</sup> Sam would use his youngest son as a punching bag after coming home upset because of something someone else had done.<sup>38</sup> Nobody challenged Sam because everyone was afraid of him.<sup>39</sup> Sam repeatedly threatened to stab Robert. This was a credible threat from Sam, who admits to stabbing three people in various bar fights.<sup>40</sup>

According to Tommy Henson, Robert's cousin, Sam frequently

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<sup>35</sup> Exhibit G at para. 3.

<sup>36</sup> Exhibit G at para. 10.

<sup>37</sup> Exhibit E at para. 7.

<sup>38</sup> Exhibit E at para. 6.

<sup>39</sup> Exhibit L at para. 4.

<sup>40</sup> Exhibit A at para. 9; Exhibit J at para. 6.

threatened to stab people when he was angry.<sup>41</sup> Donnie Creed recalls an incident at Pep Boys when Sam pulled a knife on two men and began threatening them because they were being loud.<sup>42</sup> Sam once made Tommy and Robert clean blood out of his truck when they were six years old; the blood belonged to someone who had been stabbed in one of Sam's many knife fights.<sup>43</sup> Robert would cower in fear any time Sam got angry.<sup>44</sup>

In August 1995, Robert Pruett got into an argument with his neighbor Ray Yarbrough. The argument escalated and Ray Yarbrough threatened Robert. Robert told Sam about the threats. When Yarbrough returned home from a night out, he began screaming towards the Pruett's trailer. Robert and Steven ran outside. Sam followed close behind, armed with a knife. Robert and Steven watched as their father proceeded to stab Ray Yarbrough, who later died from his injuries. Though it was Sam who stabbed Ray Yarbrough, Steven and Robert were also charged under the law of parties. Sam received a life sentence; Steven was sentenced to forty years; and Robert (who was

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<sup>41</sup> Exhibit L at para. 4.

<sup>42</sup> Exhibit M at para. 4.

<sup>43</sup> Exhibit L at para. 6.

<sup>44</sup> Exhibit L at para. 4.

only fifteen when the murder occurred) was sentenced to ninety-nine years in an adult prison. Four years later, Robert was at the McConnell Unit where Officer Daniel Nagle was killed. If not for the reckless and violent actions of his abusive father, Robert would not have been in prison.

**Officer Daniel Nagle's efforts to reform the McConnell Unit put him at odds with his co-workers and the prisoners with whom they laundered drug money.**

Officer Daniel Nagle was stabbed to death in the restroom connected to the multipurpose room of building three of the McConnell Unit on December 17, 1999. The shank that was used to kill him was recovered from that room. Also found at the scene was a disciplinary report that had been torn into several pieces. The State's theory was that Robert Pruett killed Officer Nagle in retaliation for Nagle's writing the report earlier that day. Officer Nagle had issued Robert the citation because Robert had food in an area in which food was not allowed.

In addition to the shank and the disciplinary report, investigators recovered a blue baseball cap, blood, and keys from the multipurpose room. Much of this evidence was subjected to forensic DNA analysis. The analysis that was conducted on the shank was limited to the

bloodstains found on the weapon. Lisa Harmon Baylor conducted the analysis. The diagrams Ms. Baylor drew as she conducted the testing confirm that her pretrial analysis of the shank was limited to the bloodstains. Her testimony at Robert's 2002 trial confirmed this.

Of the two stains, only one yielded a conclusive result. That blood was found to belong to Officer Nagle. The analysis conducted on the disciplinary report pretrial was limited to the blood found on it. That blood, too, belonged to Officer Nagle. Other bloodstains found near Officer Nagle's body were determined to be Nagle's. None of the analysis conducted on any of the evidence collected from the site where Officer Nagle's body was found revealed any DNA from Robert. In other words, none of the analysis provided any link connecting Robert to Officer Nagle's murder.

Evidence was also collected from a gym that was near the multipurpose room and from the restroom that was connected to the gym. The evidence collected from this area included a white towel and a pair of pants. There were bloodstains on both of these items. Ms. Baylor concluded this blood belonged to Robert, who had cut his finger on a piece of gym equipment earlier in the day. None of the blood analyzed

from the evidence collected from this site belonged to Officer Nagle. If Robert had, in fact, been the one to kill Officer Nagle by stabbing him repeatedly with the hand-carved weapon, it is inconceivable that there would be none of Officer Nagle's blood on Robert or anything he was wearing at the time. None of the analysis conducted on any piece of evidence collected from the gym area supported the State's theory that Robert killed Officer Nagle.

Unlike some of the officers employed at the McConnell Unit on December 17, 1999, Officer Daniel Nagle was an upstanding officer who served as the head of the correctional officers union. At the time, the McConnell Unit was overcrowded and understaffed. While TDCJ protocol mandated that most stations be manned by two guards, at the McConnell Unit, typically only one guard would be stationed at each post. This left officers vulnerable. And, as the leader of the union, Officer Nagle felt it was necessary to address the issue. At the time he was killed, Nagle was in the process of writing a grievance concerning the safety of his coworkers and identifying corrupt senior officers. Many of his fellow officers were indeed corrupt, and would take advantage of the fact that they were assigned to a station without another guard.



This allowed corrupt officers to engage in nefarious activities, which included helping members of the Texas Syndicate launder their drug profits through the prison. A month after Officer Nagle was killed, three officers from the McConnell Unit, two male and one female, were indicted on federal bribery charges for participating in a drug smuggling ring within the prison.<sup>45</sup> Officer Nagle was a threat to these officers. If his efforts were successful, they would be unable to continue their illegal and profitable activities.

**With no physical evidence tying him to the murder, the State relied on false testimony provided by inmates, guards, and its forensic analyst to convince the jury Robert was guilty of Officer Nagle's murder.**

Robert Pruett was indicted on June 26, 2001 – a year and a half after Officer Nagle's murder. Trial began April 15, 2002. The State's theory was that Robert killed Officer Nagle in retaliation for Nagle's writing the disciplinary report. Though the pre-indictment investigation spanned over eighteen months, the State was not able to discover any

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<sup>45</sup> Associated Press, *4 state corrections officers charged with bribery*, Amarillo Globe News, Jan. 27, 2000, available at [http://amarillo.com/stories/012700/tex\\_LD0612.001.shtml#.WVaJf8aZNuU](http://amarillo.com/stories/012700/tex_LD0612.001.shtml#.WVaJf8aZNuU) [<https://perma.cc/6Q62-W7ZS>]; Maurice Chammah, *Scheduled Execution Revives Debate Over Prison Staffing*, N.Y. Times, Apr. 18, 2013, available at <http://www.nytimes.com/2013/04/19/us/execution-revives-debate-over-texas-prison-staffing.html>.

physical evidence that connected Robert to Officer Nagle's murder. Such evidence simply does not exist.

In addition to testifying about the results of the DNA analysis she performed, Lisa Baylor testified that she was able to determine from which specific roll of tape the tape wrapped around the handle of the shank used to kill Officer Nagle had come. Using a process called physical match comparison, Ms. Baylor claimed she could conclusively state that the tape that had been wrapped around the handle of the shank came from a roll that the State claimed had been given to Robert by his cellmate (who worked in the prison's craft shop). Much like bite mark comparisons, which Ms. Baylor testified involved the same "science," the "science" of identifying items through physical match comparison has recently been revealed to be junk science. As Judge Elsa Alcala of the Texas Court of Criminal Appeals correctly observed, the "science" Baylor relied on "has been discredited according to a 2009 Forensic Report issued by the National Academy of Sciences"<sup>46</sup> and is "inherently questionable and unreliable."<sup>47</sup>

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<sup>46</sup> Ex parte Pruett, 458 S.W.3d 537, 540 (Tex. Crim. App. 2015) (Alcala, J., dissenting)

<sup>47</sup> *Id.* at 539.

Given the complete dearth of physical evidence to present Pruett's jury, the State relied on inmate testimony. It has since been discovered that these inmates were promised favors from the State in exchange for their participation that were not, in most cases, disclosed to Pruett's attorneys. Harold Mitchell, one of the State's key witnesses at trial, later told his brother that he felt guilty for testifying at Pruett's trial because he had testified in exchange for a promise from the State that they could arrange for him to be transferred to Virginia, his home state and where his family lived, if he testified against Pruett. They also assured him he would be put into protective custody. Mitchell was told if he refused to testify, he would be charged with Officer Nagle's murder.<sup>48</sup> When asked at trial whether he received anything in exchange for testifying against Pruett, Mitchell said that he was only told a favorable letter would be placed in his parole file. He did not tell Pruett's jury that the State that he would be transferred to Virginia. The State failed to correct the false testimony it had elicited from Mitchell.

Michael Hall testified for the State as a rebuttal witness. Hall

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<sup>48</sup> Exhibit N (Affidavit of Jimmy Matthews) at paras. 3-4.

claimed that shortly after Officer Nagle's murder, he was incarcerated with Pruett at the Michael Unit. According to Hall, Pruett admitted to him that he killed Officer Nagle. During cross-examination, Hall testified that the State had not promised him anything in exchange for his testimony. Notes from the State's investigator, Ken Thompson, which were not turned over to Pruett's attorneys until three years after his trial, reveal that Hall lied. Specifically, Thompson's notes make clear that he had told Hall that the State would try to get him transferred to a unit near either Huntsville or Bryan if he testified against Pruett.<sup>49</sup>

An assault charge was dropped for one inmate who testified. One inmate, who initially told investigators his vision was limited and that he could not identify Pruett as being the person that killed Officer Nagle, testified at trial that his vision was not impaired; this individual had been released from prison by the time of Pruett's trial.

Also revealed in the investigator's notes obtained by Pruett's attorneys three years after his trial is that the State abused inmates that had expressed a desire to testify for Pruett at trial. Through this

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<sup>49</sup> Exhibit O (notes from the State's investigator) at 9.

abuse, the State was able to keep many such witnesses from testifying and – in at least one instance – was able to persuade them to testify instead for the State. Michael Scott Ross testified for the State during its rebuttal. At the time, Ross was incarcerated for assaulting a correctional officer and attempting to escape and had served eighteen years of a ninety-nine-year sentence. As Ken Thompson’s (the State’s investigator) notes reveal, Ross initially indicated he would testify for Pruett.<sup>50</sup> As was true for most or all of the witnesses that had indicated they would testify for Pruett, Ross was transferred to the Connally Unit before Pruett’s trial. Thompson’s notes – which were not revealed to Pruett’s counsel during or before Pruett’s trial – indicate he first met with Ross at the Connally Unit on April 26, 2001. Soon after meeting with an investigator employed by Pruett’s trial team in 2002, Ross wrote to Thompson requesting to meet with him again. Ross wrote that he believed his life was in danger at that time.<sup>51</sup> Thompson visited Ross the same day that he received the note Ross wrote. At that meeting, a now-fearful-for-his-life Ross told Thompson that Pruett had confessed to him. Though Ross apparently did not commit to testifying for the State

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<sup>50</sup> Exhibit O at 1.

<sup>51</sup> Exhibit O at 2.

that day, Thompson wrote in his notes that the State should “move Ross to the Stevenson Unit,” where most of the State’s inmate witnesses were incarcerated at that time, because the correctional officers at the Connally Unit were “treating the def[ense] witnesses like shit.”<sup>52</sup>

If the jury knew that these inmates gained something in exchange for testifying against Pruett – in many cases, significantly more than was disclosed at trial – it is likely they would not have believed their testimony. The State had a duty to disclose these deals to Pruett’s attorneys. The State had a duty to disclose that it abused witnesses that desired to testify on Pruett’s behalf either to silence them or to persuade them to testify for the State. The State had a duty to correct Harold Mitchell’s and Michael Hall’s false testimony. The State ignored these duties and in so doing violated Pruett’s right to due process in order to secure a conviction against him.

**Recent analysis on the shank used to Kill Daniel Nagle has yielded a partial DNA profile developed from epithelial cells deposited on the weapon that belongs neither to Nagle nor Pruett and that might belong to the person that killed Nagle.**

Robert Pruett was initially scheduled to be executed in May 2013. However, prior to this date, Pruett requested the disciplinary report

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<sup>52</sup> Exhibit O at 4.

that had been torn into seven pieces and spread near Officer Nagle's body be tested. He hoped to determine whether the individual who tore it – in an apparent attempt to frame Pruett for Officer Nagle's murder – deposited epithelial cells onto the report in a sufficient quantity to make forensic DNA analysis of those cells possible. Trial court Judge Ronald Yeager ordered the analysis be conducted and withdrew his order setting Pruett's execution.

This analysis revealed that there was DNA present on the report. However, the evidence had not been properly preserved. The report apparently had been stored in the Bee County District Clerk's office from 2002 to 2013, instead of in a controlled environment. By the time the ordered analysis was conducted in 2013, the sample obtained by swabbing the surface of the report to harvest any deposited epithelial cells was not sufficient to produce a complete DNA profile. It is possible that a complete profile could have been developed had the evidence been properly preserved. As is the case in all capital murder cases in which the defendant is sentenced to death, the State was statutorily required to preserve this evidence until the time that the sentence is carried out. Its failure to do so prevented the discovery of the person

that actually killed Nagle through the analysis of the disciplinary report.

While a complete profile could not be developed from the degraded sample, the partial profile that was developed provided no support for the State's case. Far from supporting the State's theory, approximately one-third of the guards and inmates present at the McConnell Unit on December 17, 1999 could have deposited the epithelial cells on the report that yielded the partial profile. However, despite the fact that this sophisticated testing – that utilized a method that was not in use at the time of Pruett's 2002 trial – provided no physical evidence tying Pruett to Nagle's murder, the State again asked the trial court to schedule Pruett to be executed. Judge Bert Richardson (who replaced the now-retired Judge Yeager on Pruett's case) set Pruett's execution for April 28, 2015.

Shortly before April 28, 2015, Counsel discovered that the shank that had been used to kill Nagle had not been subjected to any forensic analysis since the time of Pruett's trial. Counsel immediately requested the trial court order the weapon be analyzed. The request asked the court to order that any possible profiles that could be developed from



the weapon be developed. This analysis was to include: testing the bloodstain near the handle that did not yield conclusive results in the pretrial analysis; swabbing of the weapon to harvest any available epithelial cells present on the weapon and developing any possible profile from those cells; and swabbing the tape that was wrapped the handle to harvest and analyze any epithelial cells deposited on it. On April 28, 2015 the court granted this order and withdrew its December 17, 2014 order that set Pruett's execution for April 28, 2015.

On May 8, 2015, Judge Richardson ordered, at the State's request, that all the evidence remaining in the case be analyzed for DNA.<sup>53</sup> The judge's order specified that this analysis would include determining whether enough epithelial cells were present on the pieces of evidence to produce a DNA profile. The clothes Daniel Nagle was wearing at the time he was killed were included in the list of items the judge ordered be tested.

The shank used to kill Daniel Nagle and the tape that had been wrapped around its handle were subsequently analyzed. The swab collected by swabbing the weapon to harvest epithelial cells revealed a

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<sup>53</sup> Exhibit P (Second Order Granting Post-Conviction DNA Testing).

partial profile that belongs to neither Nagle nor Pruett. The report issued by analyst Baylor (who, along with the pretrial analysis conducted the most recent analysis) revealed a partial profile that the analyst reported belonged to an unknown female.<sup>54</sup> However, the analyst did not submit the sample to testing such as Y-STR analysis that could confirm the sex of the contributor of the sample.

The State claimed that the partial profile could have only been deposited after Pruett's 2002 trial. It is true that, like the disciplinary report, the State failed to properly preserve the weapon. It is also known that multiple people handled the weapon. However, the only way to state with certainty that the profile developed after Pruett's trial was contaminated, is to believe that the analysis Baylor performed in 2015 was identical to the analysis she performed in 2000. However, we know from Ms. Baylor's testimony at Pruett's 2002 trial that the analysis she conducted in 2015 was not the same as the analysis conducted in 2000. In 2000, she analyzed only the bloodstains on the weapon. This new profile had come from a swab taken of the other areas of the weapon.

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<sup>54</sup> Exhibit Q (Supplemental DNA Laboratory Report)

At an August 13, 2015 hearing concerning the results of the analysis, Counsel asked Ms. Baylor whether she swabbed beneath the evidence tag on the weapon. While she testified that she had, the diagram she created during the 2015 analysis reveals that the 2015 sample, in fact, did not include swabbing under the evidence tag.<sup>55</sup> This is significant. The tag was placed on the weapon at Pruett's 2002 trial and does not appear to have been moved in the interim. The portion of the weapon beneath the tag is therefore likely to be the only area of the shank that was not compromised because the State failed to properly preserve the weapon. It is likely that whoever killed Daniel Nagle deposited epithelial cells on the weapon. If epithelial cells are present on the portion of the weapon beneath the tag, it is likely that they belong to the person that killed Officer Nagle. The State should not be allowed to execute Pruett while analysis remains to be conducted that can prove his innocence and possibly identify the person that killed Officer Daniel Nagle.

Additionally, the May 8, 2015 order specified that the clothes Officer Nagle was wearing at the time he was killed were to be analyzed

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<sup>55</sup> Exhibit R (Baylor's 2015 diagram)

for the presence of epithelial cells. Despite the court's order, as revealed at the August 13, 2015 hearing, the analyst made no attempt to comply with this portion of the order. It is likely that epithelial cells from the person that killed Nagle are present on the clothes he was wearing when he was killed. It does not appear that the clothes were stored in the same location as the shank and the disciplinary report and have therefore not suffered the same degradation as those items. A DNA profile developed by analyzing epithelial cells present on Officer Nagle's clothes that do not belong to Officer Nagle would very likely belong to the person that killed him. The State should not be allowed to execute Robert Pruett while this analysis – which the judge ordered be done and could prove Pruett's claim of innocence – has yet to be done.

**If this Board decides not to recommend the Governor commute Pruett's sentence to life, it should recommend he grant a 120-day reprieve so that testing that could confirm Pruett's innocence can be completed.**

The area of the shank that has been covered by the State's evidence tag since 2002 has yet to be tested. The identity of the person that killed Officer Nagle could be revealed through analysis of this portion of the weapon. Similarly, the clothes Daniel Nagle wore on December 17, 1999 have yet to be analyzed to determine whether

epithelial cells are present that can be analyzed. If present, analysis could reveal that these epithelial cells belong to the person that actually killed Officer Daniel Nagle. This would exonerate Robert Pruett.

Finally, even though Texas law requires that any DNA profiles developed from analysis ordered pursuant to Chapter 64 of the Code of Criminal Procedure be compared to profiles contained in the FBI and DPS databases, such comparison has not yet been attempted with the partial profile developed from the weapon. This comparison could reveal the identity of the person that killed Officer Nagle. If this Board is not inclined to recommend the Governor commute Pruett's death sentence to a sentence of life in prison, it should recommend the Governor enter a 120-day reprieve so that this analysis that can confirm Pruett's claim of innocence be conducted.<sup>56</sup> Pruett has asked a federal court to find that his rights to due process were violated by the State's failing to conduct the analysis he is due. Allowing Pruett to be executed when analysis that can prove his innocence remains to be done would be unconscionable.

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<sup>56</sup> Certified copies of the documents required by the Texas Administrative Code Rule 143.42 to request a reprieve, including the indictment, judgment, verdict, sentence, and order setting execution are attached as Exhibit S.

## Conclusion

Robert Pruett was born into a family in which he suffered from tragic abuse. His parents manipulated him and he was projected onto a path where he had no chances of success. Pruett's jury never heard the details of his life contained in this petition. If it had, as confirmed by four of the jurors, Pruett would have been sentenced to life in prison instead of to death.<sup>57</sup>

More importantly, there is DNA analysis that has been ordered but has yet to be completed that could confirm Robert Pruett's claim that he is innocent of Officer Daniel Nagle's murder. This analysis could also reveal the identity of the person who actually killed Officer Nagle. This Board should recommend the Governor commute Pruett's sentence or at least grant a reprieve so that the yet to be completed analysis can be done to "ensure the integrity of [Pruett's] conviction is beyond reproach."<sup>58</sup>

Despite the heartbreak they have endured, members Daniel Nagle's family (including his sister and niece) have written letters in

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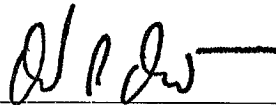
<sup>57</sup> Exhibit T (Juror affidavits).

<sup>58</sup> Ex parte Pruett, 458 S.W.3d 537, 539 (Tex. Crim. App. 2015) (Alcala, J., dissenting).

asking this Board to recommend Pruett's sentence be commuted.<sup>59</sup>

Robert Pruett respectfully asks that this Board recommend the Governor commute his sentence to life in prison. Alternatively, Robert Pruett requests the Board recommend a 120-day reprieve so that analysis that could prove his innocence can be completed.

Respectfully submitted, this 19<sup>th</sup> day of September, 2017.



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*Counsel for Robert Lynn Pruett*

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<sup>59</sup> Exhibit U (Letters from members of the Nagle family).

# Exhibit A



STATE OF TEXAS            )  
  )  
COUNTY OF WALKER        )

**Affidavit of Howard Pruett, Sr.**

1. My name is Howard Pruett, Sr. My nickname is "Sam." I am Robert Pruett's father. I currently live at the Ellis Unit in Huntsville, Texas. I am over the age of eighteen years and am otherwise competent to give this affidavit.
2. I am in prison right now for stabbing my neighbor, Ray Yarbrough. This is my fifth time to be in prison.
3. The first time I was incarcerated was in 1964. I was in prison for thirteen months for stealing an automobile. I met Robert's mother, Marcia, in 1967. We were married in 1968. Our oldest son, Steven, was born in 1969. After Steven was born, I was arrested again in 1970 for burglary and spent 2 ½ years in prison.
4. My stepdaughter, Tammie, was born when I was in prison in 1971. I am not her biological father. Her father is a man my wife had a relationship with when I was in prison. I was arrested again in 1974 and spent four years in prison.
5. Robert was conceived after I was released from prison in 1978. In April or May of 1979, before Robert was born, I told my wife that I was going to the bar. Instead of going to the bar, I went on a two-week-long crime spree that spanned across the country. I was arrested in Arizona and spent 7 years in prison in Missouri.
6. When I was in prison, my nephew Mike molested Tammie. They had three children together. Mike raped other members of our family including Nancy Scott's daughter. Mike died in 2007.
7. After I was released from prison in 1986, we lived with my brother Bill. A few months after I was released, I caught Robert huffing gasoline to get high. I told him that huffing gas would fry his brain and that he should smoke marijuana instead. After that, we smoked marijuana everyday together.
8. Robert's mother and I also used cocaine.
9. In between the time I was released in 1986 and arrested for stabbing Ray Yarbrough, I stabbed three different people in bar fights. I have always had a bad temper. After one of the stabbings, to escape the police, I moved my family to Florida.



# Exhibit B

STATE OF TEXAS            )  
  )  
COUNTY OF HARRIS        )

**Affidavit of Marcia Pruett**

1. My name is Marcia Pruett. I am over the age of eighteen years and am otherwise competent to make this declaration.
2. Robert Pruett is my son.
3. My husband, Sam Pruett, acted crazy when he became drunk. He would holler and scream at everyone.
4. We did not have enough money for food when Sam was in prison. Robert, Steven (my son), Tammie (my daughter), and I would have to use water hoses at restaurants to take showers. We each had our own bucket that we carried down there.
5. We did not have electricity for months at a time. We would have to dig through the dumpsters at McDonald's and Burger King everyday to have enough food to eat. Steven would lift Robert, Tammie, and me into the dumpster. We all got in there together to look for food.
6. Before Sam got out of prison, we had to move around all of the time because I could not afford to pay the rent. The longest we stayed in one place was for two or three months. We would often sleep at parks when we were between places to live.
7. "Grandpa," a man Sam was friends with in prison, came to live with us when he got out of prison. Grandpa let Tammie, Robert, Steven, and me sleep in his white van. We slept in this van off-and-on for months.
8. My daughter Tammie was addicted to cocaine. She used it everyday.
9. Sam gave Robert his first joint when he was seven years old. My husband and I smoked weed and cocaine in front of Robert everyday. By the time Robert was nine years old he helped us roll joints.
10. When Robert was in elementary school, he went to school high on most days. His teachers would call me and make me come pick him up from school.

11. Robert's trial attorneys never contacted me. If they had, I would have told them this information.
12. Prior to this year, I was never contacted by any of Robert's attorneys during his appeals. If I had been contacted, I would have told them this information.
13. I provided the legal team that is currently working for Robert with contact information for many of the people that they spoke to – including Michelle Perrault, Nancy Scott, Troy McLain, Bonnie McLain, Tommy Henson, Charles Nash, and Bill Pruett. If Robert's trial attorneys or any of his previous appellate attorneys had asked me for contact information for these family members, I would have given it to them as well.

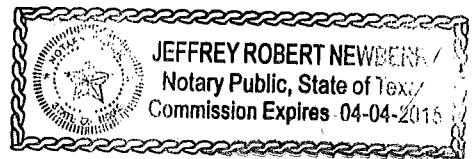
I have read the above 13 paragraphs and I declare under penalty of perjury that the foregoing is true and correct. Executed this 1 day of May, 2013.

Marcia Pruett

Marcia Pruett

Signed and sworn before me this 1<sup>st</sup> day of May, 2013.

[Signature]  
Notary Public, State of Texas



# Exhibit C

STATE OF TEXAS        )  
  )  
COUNTY OF NUECES    )

**Affidavit of Christine Henson**

1. My name is Christine Henson. I am over the age of eighteen years and am otherwise competent to make this declaration.
  
2. Robert Pruett is my nephew. Sam Pruett (Robert's father) is my uncle. My mother (Lema) is Sam's sister. I am twenty-three years older than Robert.
  
3. Sam was very violent all of the time. When he drank alcohol, he became crazy. He drank frequently and a lot. I remember one incident when Tammie was a baby. Sam was drinking whiskey at a V.A. house they were living in and went nuts. He came home, started beating his chest and started hollering. He threw a glass cup across the room. When it shattered, it cut Tammie's face. He started tearing up the house. He tore out light sockets, sheetrock, light fixtures, and wall paneling. He also tore two doors off of hinges, burst out the windows in the living room, and tore out the space heaters in the wall. Marcia, Tammie, my mother, and I were so scared that we hid from him in the closet. I grabbed Tammie, and we went to my car to try to escape, but Sam got on top of the car, cracked my windshield and dented the hood. After Sam destroyed the house, the military took the house away from the family.
  
4. When Robert was seven years old, I saw Marcia and Sam passing him weed in a joint. I never did drugs and confronted them about it. Marcia said that the weed would not harm Robert and would make him tougher. When Robert choked on the smoke, Marcia and Sam told him to toughen up and smoke more. Sam got mad at me whenever I objected. He told me to stay out of it and that it was not hurting Robert. Sam told me that he turned out just fine and he has always smoked weed.
  
5. When Robert was a baby, I saw Marcia changing Robert's diaper and playing with his penis. My mom saw it and slapped Marcia across the face for doing it. Marcia acted surprised, denied what she was doing, and acted like it was all a joke. I also saw Marcia do this to Steven (Robert's brother) on multiple occasions.
  
6. Marcia regularly prostituted Tammie out to other men. I saw random men come into their home and lay in bed with Marcia and Tammie. Marcia told Tammie that men were coming over and that she better be good to them. My mom confronted Marcia about it, and Marcia would justify it by saying that she had to pay the bills somehow. Sam was in prison during this time.

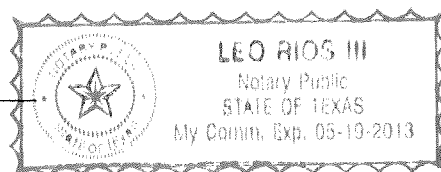
7. When we lived in Houston and Robert was young, my uncle Dewey regularly molested both Robert and Steven. Marcia let Dewey do this in exchange for money. I saw Dewey pay Marcia money when he returned the boys to her.
8. When Robert was ten years old, he told me that he searched through dumpsters for food and stole from people to get money to buy food. Robert and Tammie regularly panhandled on the street corners.
9. Robert's family did not always have running water or electricity. Sometimes his family would come to my mother's house with very dirty clothes and took showers and ate our food.
10. I was contacted by Robert's trial attorneys. I believe I was the only one contacted from Robert's family because I lived in Corpus Christi and was close to the courthouse. When I was contacted, I only met with his attorneys. I never met with Robert's defense team's psychologist.
11. His attorneys spent about thirty minutes meeting with me before I testified. They told me that they wanted me to talk about Robert's dysfunctional family. When on the stand, I testified that his family was dysfunctional, and when asked what I meant by "dysfunctional," I began to describe what I meant. Instead of asking me more questions and allowing me to testify more, his attorneys only asked me whether I ever tried to help and then stopped questioning me. If they would have given me an opportunity to testify more by asking me more questions about the family, I would have testified about all the information in this affidavit.
12. I was never contacted by his attorneys during Robert's appeals. If I had been contacted, I would have told them this information.

I have read the above 12 paragraphs and I declare under penalty of perjury that the foregoing is true and correct. Executed this 20 day of April, 2013.

Christine Hinson  
Christine Hinson *CH*

Signed and sworn before me this 20 day of April, 2013.

[Signature]  
Notary Public, State of Texas





# Exhibit D

STATE OF TEXAS            )  
  )  
COUNTY OF ORANGE        )

**Affidavit of Nancy Scott**

1. My name is Nancy Scott. I am over the age of eighteen years and am otherwise competent to make this declaration.
2. Robert Pruett is my first cousin on Robert’s dad’s (Sam Pruett) side of the family. Sam is my mother’s brother. I am twenty-one years older than Robert.
3. When Robert was five, I saw Marcia (Robert’s mom) and Robert go into the same bedroom together and lock the door. I don’t think Robert went in there voluntarily. He was only five years old and would come whenever his mom called him. Sam was in prison during this time. I saw this happen several different times. When Robert went into the bedroom with Marcia, I believed she was molesting him. When Robert was five years old, he told me that Marcia and her girlfriends would suck on each other’s breasts in front of him.
4. Tammie (Robert’s sister) was about seven years old when Marcia began selling her to older men for sex. When Tammie lived with my brother, she told him about it.
5. “Grandpa,” a friend of Sam’s from prison, molested Tammie with a group of his friends. When Grandpa got parole, he needed a place to live, so Sam took him in. CPS had to come rescue Tammie. Marcia told me about them taking Tammie. After she was put into foster care, Marcia was not allowed to visit Tammie by herself, so I would go with her.
6. When Steven (Robert’s brother) was ten years old, Marcia gave him to my uncle Dewey to have sex with. I knew about this because Marcia told my grandmother and me about it. We didn’t do anything about it because we believed the cops wouldn’t get involved with domestic issues.
7. When I was seven years old, Sam molested me. We were living in Houston and he would babysit us at our house. When everyone went to bed, he would molest me. On other occasions, the kids would play at the house next door, and when they all went home, Sam would come over there and molest me. The molestation continued until Sam met Marcia. I was about eight years old when Sam and Marcia met. I never told anyone about it.



# Exhibit E

## DECLARATION OF Tammie Pivett

I am over the age of eighteen and competent to make this statement.

1. My name is Tammie Pivett. Robert Pivett is my younger brother, we lived together growing up. Marcia Pivett is my mother. Sam Pivett is not my biological father, but I lived with him growing up.
2. Whenever I was two my mother gave me to her boyfriend Eddie for sex. My Mom gave me to Eddie because Eddie would give her drugs or drug money. My Mom continued letting Eddie rape me until I was eleven. When I told my Mom I was being raped she called me a liar.
3. At age ~~two~~ During that time my Mother sold me to ten different men for sex. My mom found these men on the street and would give me to them for drug money.
4. I remember the first man my Mom said me to come into the trailer where we were living with my Mom. My Mom told me to go with him into my room. I didn't know what was going to happen. He tied my hands up and put tape on my mouth and raped me.
5. At age eleven I told the school I was attending I was being raped. The school contacted child protective services and I was placed in foster care for two years.
6. At home I was physically abused by Sam. ~~Sam~~ I remember once when I didn't do a chore Sam wanted me to do, he took a belt buckle and broom handle and started hitting me. He hit me so hard I fell and broke my ankle. Sam did not take me to the hospital and Marcia called me an idiot. I was beaten like this once a week.
7. Sam physically abused Robert. When Robert was younger he would follow me around. one day

Sam asked him to do a chore, which he didn't do. so Sam hit Robert, very hard, on the back with a broom handle.  
Robert was hit like this once a week.

8. My Mom started giving drugs to Robert at age 7. Mom wanted Robert to steal a car for her so that she could sell it for drug money, so she gave Robert weed for courage.  
Robert stole the car and my Mom sold it. Following that my Mom would give Robert weed at least once a week.  
Robert never asked for it, she forced it on him.
9. When I was growing up the family moved dozens of times because we couldn't afford our rent. sometimes we had to leave in the middle of the night to avoid getting caught. Moving so much was hard on Robert because he could never make good friends
10. At age sixteen I started a relationship with my cousin Mike. My cousin Mike was physically and sexually abusive. I became pregnant with his daughter. While I was pregnant Mike gave me coke and caused me to over-dose. My parents never cared that I was with Mike, and being with him was better than being home with my parents.
11. When Robert was 15, my neighbor Ray Varborough came home and started yelling at us. I saw my Dad, Robert, and brother Steven go around the back of the trailer and fight Ray. I saw my Dad stab Ray multiple times. Robert was not even touching Ray.
12. Before last month, I was never contacted by any of Robert's defense attorney's during his appeals or during trial. If I had been contacted, I would have told them this information

I declare under penalty of perjury that the foregoing is true and correct. Executed on this 16<sup>th</sup> day of May, 2013.

Tammie Pruet  
Declarant

# Exhibit F

## AFFIDAVIT OF Charles Nash

I am over the age of eighteen and competent to give this affidavit.

1. my name is Charles Nash. Robert Pruett is my cousin. I am six years older than Robert.
2. When Robert and Steven <sup>(Robert's brother)</sup> were babies, Marcia molested them. It was a well-known fact in our family. Marcia wore silk nightgowns. I saw her put Robert underneath her nightgown when he was a baby.
3. Marcia (Robert's mother) allowed her dog to lick her vagina. I saw it happen and threw a bleach bottle at her. It hit her in the head. I was nine years old.
4. Marcia was a prostitute. I saw her bring lots of men to their house in Houston.
5. Robert and I never had enough food to eat. Robert, when he was five years old, used to ride his bicycle to the store to steal food. When Robert was 8 years old, we stole food from Kroger because we had no food at home.
6. When Robert was three years old, I saw Marcia giving Robert marijuana in a joint. Robert ~~was~~ knew how to roll a joint by the time he was five years old. Robert smoked all of the time.

C. N.  
Initial



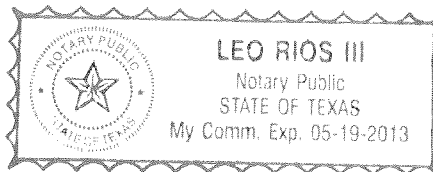
7. Marcia used to give Robert and Steven to our uncle Dewey in exchange for Dewey to pay her rent, take her shopping, and take her to eat. Dewey took them on camping trips. Steven told me that Dewey molested them on these trips. Robert was four years old.
8. Marcia's boyfriend, Wayne Brooks, molested Robert when he was four years old. I saw Wayne come over to their house all the time. It was well-known in the family that he was molesting Robert.
9. I have never been contacted by any of Robert's attorneys. If I would have been contacted, I would have given them this information.
10. \_\_\_\_\_

I declare under penalty of perjury that the foregoing is true and correct. Executed on this 20 day of April, 2013.

Charles Wash  
Declarant

Signed and sworn before me this 20 day of April, 2013.

[Signature]  
Notary Public, State of Texas



# Exhibit G

STATE OF TEXAS            )  
  )  
COUNTY OF ORANGE        )

**Affidavit of Troy McLain**

1. My name is Troy McLain. I am over the age of eighteen years and am otherwise competent to make this declaration.
  
2. Robert Pruett is my second cousin on Robert's father's side of the family. Robert is two years older than me. We lived together off and on from the time I was three until I was about fourteen. I lived with Robert in Houston with Robert, my parents (Bonnie and Wayne McLain), my brother (Billy McLain) and two sisters (Tonya and Rebecca McLain), Robert's parents (Marcia and Sam Pruett), Robert's brother (Steven Pruett), and Robert's sister (Tammie Pruett). We all lived together because none of us ever had enough money to make rent. We lived in a small two-bedroom trailer. My parents shared one room and Robert's parents shared the other. The kids all slept in the living room on the couch or on the floor.
  
3. When I was ten and Robert was twelve, we broke into four houses with our friend, Justin. A tornado had come through the area, so people had abandoned their homes. We broke into these houses so we could pawn the items we stole for money to buy food for everyone. Robert's parents knew we were stealing, but they never asked questions about it. We gave the money we got from stealing to Robert's parents so they could buy food and marijuana.
  
4. Marcia made Robert sleep in bed with her naked all the time. When I was seven years old and Robert was nine years old, I walked into the room to wake Robert up in the early morning hours and found him lying in bed naked with his mother. Sam was often gone looking for work cutting trees. Sometimes, Robert and I would go with Sam to look for tree cutting work because Robert did not want to stay home with Marcia. My parents knew about this, but they never called the police or CPS.
  
5. When Robert was between eleven and thirteen years old, Marcia often made him go to the bathroom in the same stall with her in public places. My mom asked Marcia why she made Robert do this, and Marcia told her, "I don't have to answer to you."
  
6. My great-uncle Dewey, who is my father's uncle, molested Steven when he was about twelve years old. I cannot remember how old uncle Dewey was. I heard about the incidents directly from Steven. After Sam got out of prison, the family stayed with Dewey. The first night they stayed with Dewey, Robert and Steven were sleeping in the

living room. Sam was sleeping at the end of the hall. In the middle of the night, while Robert and Steven were sleeping, Dewey came into the room and began touching his penis and began performing oral sex on him. Steven woke up and started screaming. Sam woke up, chased Dewey out of the house with a knife, and threatened to stab him.

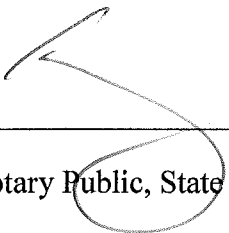
7. My uncle Mike, who is my dad's brother, had children with Tammie. Mike took advantage of Tammie, who is mentally retarded and did not understand what was happening to her. They had three children: Samantha, Mikey, and Angel. Their children were taken from them when they were all under five years old. Angel was a newborn when she was taken from them. Tammie looked emaciated when the cops busted into their home.
8. Uncle Mike also molested my brother when he was two years old. Uncle Mike had a van and a BB gun. He told my brother to come into the van and play with the BB gun. My brother got into the van. I was there, too, but Uncle Mike told me I could not go inside the van. I tried to open the van door, but it was locked, so I ran into the house and told my dad what had happened. My dad then ran outside and found my brother with his pants down with Uncle Mike. My dad beat up Uncle Mike.
9. When I was seven and Robert was nine, we would search through the dumpsters at Walmart, HEB, and Kroger looking for food. Marcia would tell us to go to the dumpsters behind Walmart to look for any canned goods. We did it because we needed food to eat. Because Sam did not always have tree cutting work, Robert and I had to help feed the whole family.
10. When Robert was ten and I was eight, I saw Sam physically abuse Robert. It was mid-afternoon and school was out. We were standing outside in front of our trailer. The starter on the car would not work, so Sam told Robert to get up underneath it and fix it. Robert said he didn't want to fix it, so Sam slapped him really hard in the face. When I told Sam to stop, he told me that it didn't concern me and that I should mind my own business. Robert then got under the car and tried to fix it, griping about it as he did. Sam heard Robert complaining, and he grabbed Robert's legs and pulled him out from underneath the car, causing nails to scrape up his back. The cuts were so bad and Robert needed stitches, but Sam did not take him to the hospital.
11. When I was four, we lived at the Green Acres Trailer park in Houston. I was sitting inside the trailer with Robert, who was six. We walked past Sam, who was sitting in the recliner and smoking weed. Sam grabbed Robert and told him to smoke the weed. Robert said no, and then Sam threatened him, saying he would hit him. Robert took the weed and started smoking it.

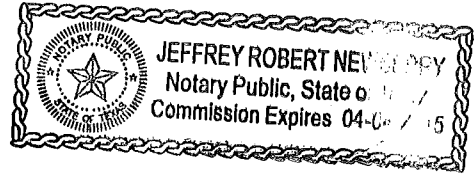
12. Sam regularly abused Robert. I remember when Robert was twelve and I was ten, Sam slapped Robert hard in the face in front of me and told him, "If you want to act like a man, I'm gonna treat you like a man."
13. When I was eight and Robert was ten, we sold papers at the local Walmart for \$1 each. We got to keep fifty cents from each paper we sold. We needed the money for food.
14. When I was ten and Robert was twelve, there was a time when I was eating dinner with Robert's family. We were having sloppy joes and tater tots. I popped two tater tots into my mouth, and Sam asked me what I was doing. I told him that I was filling up my plate. Sam thought that I had already eaten and, thinking I was eating a second helping, got mad. He threw mine and Robert's food out the window.
15. When I was six years old, Sam gave me \$20 and told me to go into the Fiesta store and buy whatever I wanted, but to make sure I got \$5 bills back as change so that he could buy a joint. I went inside the store and bought a \$2 toy gun and came out with the change for Sam. Sam got mad, slapped me hard on my face, and cursed at me. He said he only meant for me to spend around fifty cents.
16. When I was twelve years old, I had just gotten out of the hospital and had stitches in my head. Uncle Ricky came home and told me that was I lazy and grabbed me by the back of the head, where my stitches were. I left and walked to Robert's trailer. Sam was the only one home at the time, and I sat on the couch. Sam was very drunk and sat down in front of me on his knees. He then put his head in my lap and asked me if I would let him suck my penis.
17. I was never contacted by Robert's defense attorneys or any member of their team either before or during his trial. If they had contacted me, I would have spoken with them about all the things in this statement. If they would have asked me to testify, I would have.
18. Before last month, I was never contacted by any of Robert's attorneys during his appeals. If I had been contacted, I would have told them this information.

I have read the above 18 paragraphs and I declare under penalty of perjury that the foregoing is true and correct. Executed this 10 day of April, 2013.

  
Troy McLain

Signed and sworn before me this 10<sup>th</sup> day of April, 2013.

  
\_\_\_\_\_  
Notary Public, State of Texas



# Exhibit H

STATE OF TEXAS            )  
  )  
COUNTY OF ORANGE        )


**Affidavit of Michelle Perrault**

1. My name is Michelle Perrault. I am over the age of eighteen years and am otherwise competent to make this declaration.
  
2. Robert Pruett is my second cousin on his father's (Sam) side of the family. Sam is my grandmother's brother. I am five years older than Robert.
  
3. When I was fifteen years old and Robert was ten, I saw Robert high on cocaine. Robert's family was living in a trailer in Houston. Sam (Robert's father), Marcia (Robert's mother), and Steven (Robert's brother) would all give cocaine to Robert all the time. I saw him like this on five or six different occasions. My other cousins did cocaine frequently, so I could tell when someone had been using it.
  
4. On one occasion, I lent Sam money, and he used it to buy cocaine. Robert was twelve years old and I was seventeen years old during this time. We were on our way home from a trip to Corpus Christi and stopped by to see them. During this time, we were fighting with the State to get our Uncle Mike and Tammie (Robert's sister)'s children back, so we were travelling frequently. Sam asked me if he could borrow money. I said okay and lent him some money. Sam then turned around immediately and used it to buy crack from a man named James Terry, who was standing there. I got mad about it, but Sam just ignored me. They would take a piece of foil, fold it in half, put the cocaine in it, light it up, and call it "chasing a dragon." Robert was just sitting there watching while they did this. Marcia and Sam did cocaine in front of Robert all of the time. Marcia and Sam would babysit us frequently and would use cocaine in front of us when we were there.
  
5. Uncle Mike molested my baby sister, Brandy, when she was four years old. I was seven years old at the time. My mom came home from the grocery store and asked me where Brandy was. I said she was in the bedroom. She ran into the bedroom and found Uncle Mike with Brandy. I saw Brandy covered in blood. We called the police, but Uncle Mike was a juvenile at the time, so the police let him go.
  
6. I regularly saw Tammie and Uncle Mike shoot up drugs with a needle at Robert's family's trailer in Houston and at their house in Beaumont. The drugs made their skin, teeth, and eyes turn yellow. Both Tammie and Uncle Mike ended up getting hepatitis. Robert was around ten during this time.



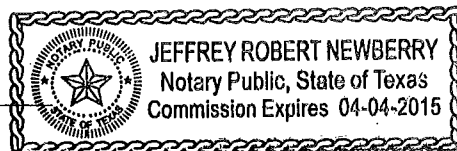
7. When I was ten years old and we were living in Beaumont, I was out in the front yard playing with my cousins Chucky, Troy, and Billy Wayne. Chucky looked through the window of the home and said, "Hey, come over here!" So, we all ran over there and saw Marcia in the window using a candy cane to masturbate.
8. Marcia molested Robert when he was a small child. I remember one time when we were all standing outside Robert's family's trailer in Houston, and Uncle Mike, Marcia and Sam were laughing about how Uncle Mike had molested one of our cousins. I remember Marcia and Sam saying that molesting them is how the "claimed" their children.
9. The state took Tamie and Uncle Mike's children away because their six month old baby only weighed two pounds and was not being fed. The cops burst in on their motel room. When my mom was called about the incident, we went to the hospital and saw Angel, their six month old child, lying in the hospital only weighing two pounds. I was fourteen years old when I saw this.
10. I was never contacted by Robert's defense attorneys or anyone working for them before or during his trial. If they had contacted me, I would have told them all the information in this affidavit. If they had asked me to testify at his capital murder trial, I would have.
11. Before last month, I was never contacted by any of Robert's attorneys during his appeals. If I had been contacted, I would have told them this information.

I have read the above 11 paragraphs and I declare under penalty of perjury that the foregoing is true and correct. Executed this 10 day of April, 2013.

  
Michelle Perrault

Signed and sworn before me this 10<sup>th</sup> day of April, 2013.

  
Notary Public, State of Texas



# Exhibit I

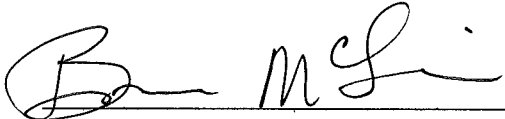
STATE OF TEXAS            )  
  )  
COUNTY OF ORANGE        )

**Affidavit of Bonnie McLain**

1. My name is Bonnie McLain. I am over the age of eighteen years and am otherwise competent to make this declaration.
2. Robert Pruett is my first cousin on his father's side of the family. My husband, Wayne McLain, is Robert's cousin. Robert's father (Sam Pruett) is Wayne's uncle. I am nineteen years older than Robert.
3. We lived together off-and-on for around ten years, beginning when Robert was about three. I lived with Robert in Houston, Texas with Robert, my husband (Wayne McLain), my sons (Billy and Troy McLain) and two daughters (Tonya and Rebecca McLain), Robert's parents (Marcia and Sam Pruett), Robert's brother (Steven Pruett), and Robert's sister (Tammie Pruett). We all lived together to help one another out and save money. It was a two-bedroom trailer. My husband and I shared a room and Marcia and Sam shared the other room. Robert, Steven, Tammie, Tonya, Rebecca, Billy, and Troy slept in the living room on the couch or on the floor. We survived on food stamps.
4. When Robert was three years old, I saw Marcia give Robert marijuana. She gave it to him rolled up in a paper joint.
5. When Robert was twelve years old, I saw Robert go into Marcia's room to take a nap. Marcia would tell Robert that they were going to go into the bedroom to take a nap. Sam was at work when they would take naps. I saw this on multiple occasions.
6. When Tammie was twelve years old, I saw her smoking weed. She did this all of the time while living with all of us. When Tammie was seventeen or eighteen years old, I saw her doing crack and cocaine.
7. While I lived with them, we were on welfare and food stamps. My mother-in-law wrote hot checks to help them get food. I personally received food stamps while living them, and Marcia and Sam received their own food stamps.
8. I was never contacted by Robert's defense attorneys or anyone working for them before or during his capital murder trial. If they had contacted me, I would have told them all of this information. If they had asked me to testify, I would have.

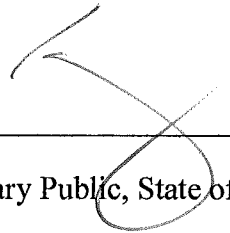
9. Before last month, I was never contacted by any of Robert's attorneys during his appeals. If I had been contacted, I would have told them this information.

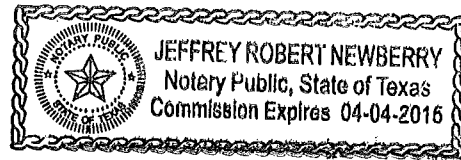
I have read the above 9 paragraphs and I declare under penalty of perjury that the foregoing is true and correct. Executed this 10<sup>th</sup> day of April, 2013.



Bonnie McLain

Signed and sworn before me this 10<sup>th</sup> day of April, 2013.

  
\_\_\_\_\_  
Notary Public, State of Texas



# Exhibit J

AFFIDAVIT OF Howard Pruett, Jr.

I am over the age of eighteen and competent to give this affidavit.

1. I am Howard Steven Pruett, Jr. I am Robert Pruett's older brother. I currently reside at the Jester III Unit.
2. I was born in 1969. My sister Tommie was born around 1971. In 1972 my mother was arrested on a forgery charge. She spent 17 or 18 months in prison. My sister and I lived with my grandmother when my mother was in prison.
3. I was in kindergarten when my mom got out of prison. That was around 1974. I did not recognize her when she got out of prison.
4. Robert was an honor roll student before our father got out of jail. Three or four months after our father was released from prison, he smoked a joint with Robert and me at our uncle Bill's house.
5. Around 1986, we moved to Arcansas Pass. We had planned to start a trailer park with money from an insurance settlement. The settlement was connected to my being hit by a car in 1983.
6. When the money ran out, my father started drinking a lot. There were two instances when we lived in South Texas where my father stabbed people in bar fights.

HSP, Jr.  
Initial

7. Soon after my father was released from jail in 1986, my family went to the lake to celebrate. My uncle Dewey molested me on this trip.

8. I testified at my brother's capital murder trial in the punishment phase. I only spoke to his attorney for a few seconds before testifying. He just told me that I was there to testify on my brother's behalf. He didn't tell me anything about the questions he would be asking me.

9. If my brother's attorney had asked me about the kinds of things in this statement, I would have testified about them.

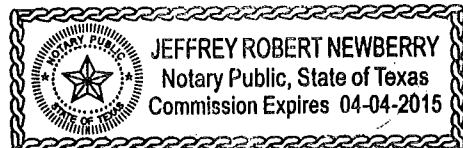
10. I have never been contacted by any of Robert's appeal attorneys. If I would have been, I would have told them all of this.

I declare under penalty of perjury that the foregoing is true and correct. Executed on this 4th day of April, 2013.

Edward S. Pruitt  
Declarant

Signed and sworn before me this 4th day of Apr. 1, 2013.

\_\_\_\_\_  
Notary Public, State of Texas



# Exhibit K



STATE OF TEXAS            )  
  )  
COUNTY OF ORANGE        )

**Affidavit of Bill Pruett**

1. My name is Bill Pruett. I am over the age of eighteen years and am otherwise competent to make this declaration.
2. Robert Pruett is my nephew. My younger brother, Sam Pruett, is Robert's father.
3. My wife and I took Robert's family in on three separate occasions. The first time, Sam had just gotten out of prison in Missouri and needed a place to live. He had gotten his parole transferred to Texas. They tried to live with my mother, but the situation did not work out because my mother was living with my brother, Dewey. Dewey is gay and made sexual advances toward Steven (Robert's brother), so Sam chased Dewey out of the house. After that, they decided they needed to find somewhere else to live, so we let them live with us. Robert was five or six years old. We lived in Houston. They stayed with us for five months.
4. Robert was in junior high the second time we let his family live with us. We lived in the Beaumont area at that time. At the time, Sam and the family ran a tree cutting business. It was a bare bones operation. They usually only had one job per week. On a good week, they would have two jobs per week. Since they didn't have the proper equipment to actually get up in the trees using lifts, they actually had to climb the trees to clip them. It was very dangerous.
5. The last time they lived with us, Robert was still in junior high. We still lived in the Beaumont area. Robert's family got evicted, so I went over to their home to pick them up with my minivan. They had so little belongings that I was able to fit everything they owned into my minivan with them in one trip. I took them to my house, and they stayed with us for about one month.
6. I kicked them out after a month because I caught them all (Marcia, Sam, Robert, Steven, and Tammie) smoking marijuana in my back pasture. Robert was twelve years old at the time. After the incident, I explained to them that my wife and I own our home and we have two children with special needs, and if the cops came and caught them, that I could lose everything. I made them leave immediately.
7. Sam easily became rowdy. When we were younger, I was in the Air Force in California, and Sam came to live with me. I set Sam up with a job in a civilian store. I remember on

instance when we were playing a card game at that store, and Sam got mad over something that happened and started yelling at everyone.

8. I was never contacted by Robert's defense attorneys before or during his trial. If I had been contacted, I would have spoken to them and told them all these things. If they had asked me to testify at Robert's capital murder trial, I would have.
9. I have been told the psychologist Gilda Kessner testified at Robert's trial that she spoke to me. I have no recollection of ever speaking to her.
10. Before last month, I was never contacted by any of Robert's attorneys or people working for them during his appeals. If I had been contacted, I would have told them this information.

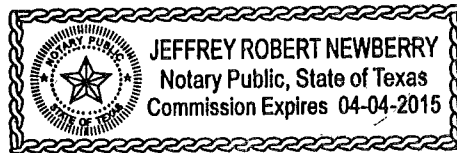
I have read the above 10 paragraphs and I declare under penalty of perjury that the foregoing is true and correct. Executed this 10<sup>th</sup> day of April, 2013.

Bill Pruett

Bill Pruett

Signed and sworn before me this 10<sup>th</sup> day of Apr 1, 2013.

[Signature]  
Notary Public, State of Texas



# Exhibit L

STATE OF TEXAS            )  
  )  
COUNTY OF ORANGE        )

**Affidavit of Tommy Henson**

1. My name is Tommy Henson. I am over the age of eighteen years and am otherwise competent to make this declaration.
2. Robert Pruett is my cousin. I am three years younger than him. When I was young, I stayed several summers with his family.
3. When I was staying with Robert we would steal together. His parents condoned this activity. I remember one time when we had stole stuff from a mall, Sam (Robert’s dad) asked us to show him what all we got.
4. Sam was very violent. He hit Robert all the time. That was how he disciplined Robert. Sam would pull knives any time he became angry, even on his own family. Reaching for a weapon was his first reaction. Robert was very scared of Sam and would cower whenever Sam got angry.
5. When I was visiting Robert when he lived in Aransas Pass, two men pulled up in a truck. They had been stabbed. Sam helped them out, but one of them died right in front of us. I was only six years old and Robert was nine years old. In the morning when we woke up, Sam made Robert and I clean up all of the blood in the truck.
6. Marcia and Sam molested their children. It was a well-known fact in the family. They would joke about it and how Marcia allowed their dogs to perform oral sex on her.
7. There was a lot of mental illness in Robert’s family. We called Steven “waterhead” because his IQ was so low.
8. My grandmother, Lema, went to prison for writing hot checks. My mom and Nancy Scott were taken from Lema and put into foster care.
9. Our Uncle John was a cocaine dealer. Robert looked up to him as his role model. Uncle John’s cocaine dealing supported our whole family and helped us get food. Other than the money from Uncle John, Robert’s family got money from their tree cutting business.

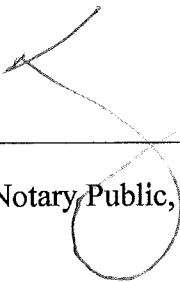
10. I was never contacted by Robert's defense attorneys of any member of their team either before or during his trial. If they had contacted me, I would have spoken with them about all the things in this statement. If they had asked me to testify, I would have.

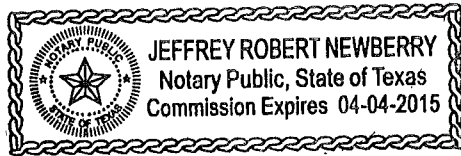
11. Before today, I was never contacted by any of Robert's attorneys during his appeals. If I had been contacted, I would have told them this information.

I have read the above 11 paragraphs and I declare under penalty of perjury that the foregoing is true and correct. Executed this 10 day of April, 2013.

  
\_\_\_\_\_  
Tommy Henson

Signed and sworn before me this 10 day of April, 2013.

  
\_\_\_\_\_  
Notary Public, State of Texas



# Exhibit M


STATE OF TEXAS            )  
  )  
COUNTY OF NEWTON        )

**Affidavit of Donnie Creed**

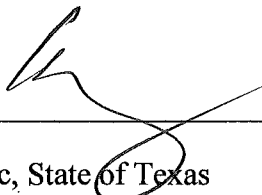
1. My name is Donnie Creed. I am over the age of eighteen years and am otherwise competent to make this declaration.
  
2. I knew Robert Pruett when he was ten to eleven years old. I dated Marcie Clifton for about two years during this time. Marcie is Robert's cousin. Sam (Robert's father) is Marcie's mother's brother. Marcie and I visited the Pruett's at their home in Houston frequently.
  
3. When Robert was eleven years old, I saw Sam slap Robert hard in the face. It was nighttime, and we were standing in a parking lot at an apartment complex in Houston. Marcie's youngest son was playing around and threw a pomegranate that accidentally broke a neighbor's window. The neighbor got really mad, and Sam was drinking, so he started yelling racial slurs at the neighbor. Eventually, someone in the complex called the police. When the police came out, Sam was still drinking in the courtyard. The police could not get Sam to put his beer down, so the police arrested him. When Sam was bailed out of jail, Robert came down the stairs and told Sam that he was going to help Sam if the incident would have escalated into a fight, and Sam slapped Robert really hard across the face and said, "You're a stupid little fucker. You don't know anything. You're just a dumbass." We never challenged Sam because we were scared of him.
  
4. I saw Sam pull a knife on people all of the time. I remember a time when I was about seventeen or eighteen years old, and we were at a Pep Boys in Houston. Another customer at the Pep Boys was talking to someone else. Sam got mad because they were being loud and they were not white, so he walked over to the person, pulled his knife on him, and started threatening him. I was able to intervene and get Sam to leave before he stabbed the man.
  
5. When Robert was ten years old, I saw Marcia passing him marijuana joints. She gave him marijuana all the time. It was normal for everyone in the family to smoke marijuana every day, all day long.
  
6. When Robert was ten years old, I saw his sister Tammie popping pills in front of Robert. Tammie would take pills drugs all of the time in front of everyone.

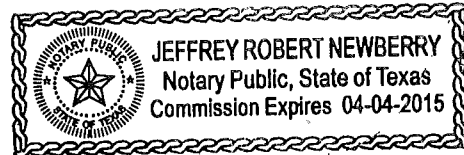
7. I was not contacted by Robert's defense attorneys or anyone working for them during or before his trial. If they would have spoken to me, I would have told them all the things in this affidavit. If they would have asked me to testify at his trial, I would have.
8. I have never been contacted by any of Robert's attorneys during his appeals. If I had been contacted, I would have told them this information.

I have read the above 8 paragraphs and I declare under penalty of perjury that the foregoing is true and correct. Executed this 10 day of APRIL, 2013.

  
\_\_\_\_\_  
Donnie Creed

Signed and sworn before me this 10 day of April, 2013.

  
\_\_\_\_\_  
Notary Public, State of Texas



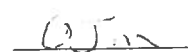


# Exhibit N

STATE OF TEXAS            )  
  )  
COUNTY OF BEXAR        )

**Affidavit of Jimmy Matthews**

1. My name is Jimmy Matthews. I am over the age of eighteen years and am otherwise competent to give this affidavit.
2. I am the brother of Harold Mitchell.
3. Around the time of Robert Pruett’s trial, I was also in prison. During this time, Harold and I often wrote each other. After I was released, I visited Harold several times.
4. Harold told me that he had testified for the State against Robert Pruett. Harold said that he felt guilty about it and had not wanted to testify against Pruett. He told me that the Internal Affairs Division threatened to charge him for the murder of Officer Nagle if he did not testify.
5. In exchange for testifying, Harold asked to be transferred to a prison in Virginia because he was from there and had sisters that lived there. The Internal Affairs Division agreed but said they would not be able to help him make parole if he was in Virginia. The person with whom he was negotiating said he knew a person that had served on the parole board who would give a positive testimony about Harold to the parole board the first time he came up for parole. Because of this, Harold decided to stay in Texas.
6. When Harold came up for parole, the person who was supposed to testify on his behalf did not show up or contact Harold. Harold was not released. The second time he was up for parole, he asked his wife and me to try to find the person that was supposed to testify on his behalf. I called the Internal Affairs Division but was told the man had retired and would not be able to testify for Harold.
7. Harold was released from prison in November 2012 and committed suicide on May 10, 2013.



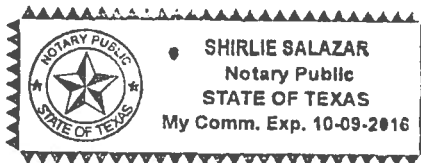
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I have read the above 7 paragraphs and I declare under penalty of perjury that the foregoing is true and correct. Executed this 13<sup>th</sup> day of June, 2014.

Jimmy Matthews  
Jimmy Matthews

Signed and sworn before me this 13<sup>th</sup> day of June, 2014.

Shirley Salazar  
Notary Public, State of Texas



# Exhibit O

Applicants (A)

INTERVIEW - CY UNIT - 4-26-01  
I/M MICHAEL ROSS # 384732

I/M Ross stated he was assigned to ML Unit, 3 Bld'g, A-2 Sec., 31 Cell, on 12/17/99. He said his cellie was named Salinas. Said Nagel was by-the-book and "over-did it," but he said he had never had any problems with Nagel, because he knew not to try anything around him.

Ross said the knew Pruett "pretty well," for the year prior to the murder. Said Pruett was a "pretty good kid, kinda high-strung, who had a lot of heart." Said he didn't know Pruett was "prospecting" with ABT.

When asked what was his first indication that something unusual was going on, on the day of the murder, Ross said he was in A-2 Section Dayroom, had just finished showering, when an officer came onto the section. Ross said the officer was checking the showers and appeared to be looking for someone. Ross said a little while later they were, "racked up." Ross said a couple of "mexican" inmates came onto the section about the same time as the officer and said that somebody had gotten in a fight with Nagel.

Ross said that several hours later someone on the section heard about the murder on their radio. He said that about midnight IAD started pulling the inmates out from his section for interviews and that he, too, was interviewed that night. Ross said he asked IAD why his "buddy," Shelton Phillips, had been "locked up," and was told by IAD that it was because he (Phillips) was Pruett's cellie.

Ross said he had known Phillips since Jan. '98, when Phillips first came to McConnell. Ross said Phillips was a "good dude" and he had helped Phillips out by keeping him out of trouble and away from the gangs. Said Phillips was called, "Shaky," because he was a Desert Storm veteran and the nerve gas had affected him.

Ross said he was on the rec. yard, playing handball with Pruett, from app. Noon that day until he (Ross) left the rec. yard to shave and shower. Ross said he knew Pruett had a sandwich on the rec. yard, but didn't know Nagel had told Pruett not to take the sandwich on the yard.

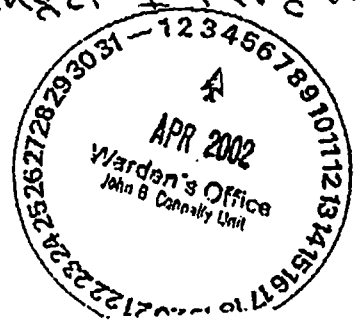
This guy is ready to testify, on behalf of Pruett, but about all he can say is that, in his opinion, Pruett was a great guy and Nagel was not a popular officer. He has not yet been contacted by the defense team.

Im currently being held  
 in transit for state court in relation  
 to the Pruitt murder trial of officer Nagaki.  
 I feel its very important that I speak  
 with someone from the States Special  
 Prosecuting Unit preferably a Mr. Kenneth  
 Thompson hes the one I spoke to the  
 first time + said that I should  
 contact him if I had anything further  
 to say. I feel Ive got some information  
 that may be important to their case.  
 I hope that if your not the one to  
 contact on this issue you will see that  
 the proper person receives this. Thank you  
 for your time

Michael S. Ross  
 384732

11-TR-3-B

I never did ask to be a part of this but  
 since i've been put on the line + I feel  
 my lifes in danger I might as well  
 choose sides



361  
862  
6328

I/M MICHAEL ROSS # 384732  
CY UNIT - 4/4/02

Went to interview Ross after receiving a letter from him to Warden Mendoza, received by the Warden today, requesting to see me. Ross was chained to CY as a def. witness. I had interviewed Ross last year & he had indicated he might testify for defense.

Ross said he was interviewed Tuesday, 4/2/02, by Dixon. Ross said Dixon showed him a letter from Pruett asking him to corroborate I/M James Richard's testimony that he had been in the rec yard with Pruett, shortly before the murder, and witnessed Pruett injure his right thumb by a metal pin on the weight machine. The letter went on to say that after the injury both Ross & Richard tried to get Pruett to go to medical but Pruett said he didn't want to be charged the \$3 co-payment & said he would treat it himself.

Ross said he wouldn't tell a lie under oath. Dixon told Ross he would be taken off their witness list & he could be sent back to CO Unit.

Ross, who, if you recall, is a big buddy of Shaky Phillips', said him & Jason McCurry, rode the same chain bus with Shaky to Connally unit last week, from Walls. When Ross & McCurry got off at CY they knew Shaky was going to Stevenson because, "That's where the State's witnesses are going to be held."

Ross said that, after the murder he was housed with Anthony Casey & Casey told him about the clothes from Pruett which Casey put in the box in the rec. yard. Ross said after the lock-down was lifted he went & saw the bloody clothes in the rec. box.

Ross was assigned to CY Unit for more than a year, after the murder. He visited with Pruett there, often. Pruett ran the whole thing down to Ross, including the fact that Harold Mitchell was in the M/P Room when the attack occurred.

Ross said he was in the rec. yard, playing handball with Pruett, the afternoon of the murder. Ross said Pruett was eating a sandwich on the rec. yard, and he was aware that Pruett had had a confrontation with Nagel over the sandwich. Ross said that when Nagel came on the rec. yard for the count, which I think was app. 30 - 45 minutes prior to the murder, Pruett "Cussed him." Ross said that, just a little later, maybe 15 minutes, as Nagel was coming back down the walkway from the gym area, Pruett cussed him again.

Ross said Pruett left the rec. yard app. 15 minutes before he did. Ross said he went to the barber shop & got a "clipper shave," then headed down to A-Pod, where he lived. Ross said he was in D-space, waiting to be let onto A-Pod, when a Mexican I/M, who he doesn't know, came up behind him & said, "Pruett got Nagel." Ross went on to his cell, knowing they would be locked down. (He walked by the desk probably 30 to 45 seconds before the murder)

As you might expect, Dixon didn't leave the letter from Pruett with Ross. The officers @ CY are treating the def, witnesses like shit - we need to move Ross to the Stevenson Unit. He's got some good stuff for rebuttal, if he comes through. He's not yet committed, & I'm not giving odds on him. I told him I'd try to visit him next week, and bring some of our attorneys, if I could. We need to stay on this & see how it shakes out.

As a footnote, if this guy comes through, we've got some serious security concerns. We're talking about an I/M who rebutts a confirmed ABT Captain, in the trial of an ABT Prospect. Ross thinks, and I agree, that he won't be safe in any TDCJ Unit.



Applic. (B)

I/M MICHAEL HALL # 424157  
INTERVIEW - 5/15/01 - E-2/HS

Inmate Hall stated he was assigned to the Michael Unit, 3 Bld'g, 34 Cell, on 12/17/99. Hall said he didn't know either Pruett or Nagel, at that time.

Hall said that in early Jan. of 2000 he was moved to In-transit status, in 11 Bld'g, 1 Row, 1 Cell, still on the Michael Unit. Hall said Pruett was already there, in 11 Bld'g, directly across the hall from him, in what may have been cell #5 or #9.

Hall said the cell doors had wire mesh on the windows of the doors and the cell next to Pruett was empty, so they talked to each other a lot. Hall said the first day Pruett was "checking him out" with casual conversation. Hall said he didn't know what Pruett was there for, but he "knew it was serious" because of the extra security and the fact that the staff always video recorded when they had to take Pruett out of his cell.

Hall said he was there in 11 Bld'g for 5 or 6 days and talked often with Pruett. He said they would sometimes sleep all day and talk all night. Hall said Pruett first told him he was "suspected" in the Nagel killing. (This was 2 or 3 days after Hall arrived there) Pruett knew Hall by Hall's AKA, "Prince."

Hall said when Pruett told him he was worried he, Hall, tried to reassure him, telling him if he didn't do it he would not be found guilty. Hall said Pruett told him the reason he was worried was because he "did do it." Hall said Pruett was cursing Nagel, calling him a "sorry mother-fucker." Hall said he sent a Bible to Pruett, telling him he could ask God for forgiveness.

Hall said Nagel "fucked with him all the time" and "gave him cases." Hall said Pruett told him a "boss man" had approached him and gave him \$60.00 in commissary for him to "take care of Nagel" or to "take Nagel out." Hall said Pruett told him Nagel was about to "turn in" some other "bosses."

Hall said Pruett told him that at first he was just going to scare Nagel, but then he got, "like an adrenalin rush" and "couldn't stop sticking him." Hall said Pruett said he had "stuck" Nagel in the neck and chest and "kinda' went into a daze." Hall said Pruett told him that he could hear people yelling at him but he "just couldn't stop." Hall said Pruett told him he was just supposed to scare Nagel and "he wasn't supposed to die."

Hall said Pruett seemed very sincere when telling him all this and appeared to be wanting to "get it off his chest." Hall said when he was moved off 11 Bld'g Pruett was still there.

Hall said his two "homeboys" were also suspects, but they had been separated.

This guy is clean-cut in appearance, articulates well and should make a good witness.

Michael Hall

E 2-45

5.15.01

12-17-99 @ MI

✓

GP 3 Bldg - 34 cell

Didn't know V, Prior to that,  
didn't know A

Early Jan, 2000 had been moved  
to Transit, 11 Bldg, 1 row, #1 cell.

Pratt a buddy there, right across  
from #1 cell, may have been #5 or #9.

We had meals on door windows. 1st day  
A was "checking me out" by casual  
conversation, didn't know what A was  
there for. Knew it was serious, because  
of extra security, # was there 5-6  
days. A said he was "suspect" in  
Regel killing. 2-3 days later, H's AKA  
is "Pine". A said he was worried  
because he "did do it". Called Regel  
a "sory mother-fucker". H sent  
Bible to A. A said Regel "fucked  
with him (A) all the time" + "gave  
him cases. A said a "boss man"

approached him & gave him \$60  
in currency, for A to "take  
care of Nigel" or to "take Nigel  
out". A said Nigel was about to  
turn in some other house. A said  
at first he was just going to  
see Nigel, but then he got  
"like an adrenaline rush" & "couldn't  
stop staying here". A said his 2  
brothers were also suspects but  
they had been separated. A said  
he stuck it in the neck & chest  
& "kicks went into a haze". A said  
he heard people yelling at him but  
he "just couldn't stop". A said  
he was just supposed to see  
Nigel & "he wasn't supposed to  
die". A appeared to be <sup>very</sup> sincere,  
wanting to "get it off his chest".  
Hall left 11 o'clock & A was still  
there.

Paul ~~979-690-7557~~  
Patricia Moore sister  
Bryon, Tex  
1405 E. 32nd st.

want visit the weed-rod-  
write & let him know if  
she's coming.

I/M MICHAEL HALL - 424157  
RE-INTERVIEW - E2(H/S) - 5/30/01

Hall got his visit with his family on 5/26/01. They expressed many concerns about his being a State's Witness, primarily his safety.

Hall is very distracted, right now, due to his 70 year old father being near death.

Hall said I would probably be contacted by members of his family, their preacher and possibly the family attorney.

Hall assured me he wanted to do the right thing and testify.

I/M MICHAEL HALL - 424157  
DA UNIT - 12/18/01

Hall was in good spirits, he's been here since 11/10/01 & says it's 9 times better than E-2, HS. Hall is still anxious to testify & seems to be holding up well.

Hall was informed that he may be moved closer to HV & he had no problems with that. We discussed his disc. record & Hall promised me that he wouldn't catch any more cases.

Hall wants to go to a unit near Bryan, where his people are, after the trial. He prefers Pack, but would be happy with a unit in Huntsville. I told him we'd do our best.

Hall asked me to call his sister, & I will. She seems to think Brazoria Co. can't be reached from Bryan. Also, I need to check & see which units, including Pack, can receive only medium custody I/Ms, & not close custody I/Ms. I need to get this info back to Hall.

My take is, he'll make a good witness for the State.

# Exhibit P

**CAUSE NO. B-01-M015-0-PR-B**

**THE STATE OF TEXAS**

**v.**

**ROBERT LYNN PRUETT**

§  
§  
§  
§  
§

**IN THE 156<sup>TH</sup> DISTRICT**

**COURT OF**

**BEE COUNTY, TEXAS**

**SECOND ORDER GRANTING POST-CONVICTION DNA TESTING**

On April 28, 2015, this court granted an order for post-conviction DNA testing in the above case. In that order, dated April 28, 2015, this Court granted the request to test the piece of metal, also known as the shank, and to also test the tape that was wrapped around the handle of the shank.

The Court now finds that the following items, which are in the possession of the Texas Department of Public Safety (DPS) Crime Lab in Corpus Christi, Texas, or have previously been tested by this DPS lab, shall also be tested for possible DNA analysis, including epithelial cells:


(The submission number and item number referenced in this list originated from the DPS lab when these items were originally submitted to that lab, and are used herein for the benefit of that DPS lab.)

1. Submission I, Item 2, Stain B on pants
2. Submission I, Item 3, Stain B on pants
3. Submission II, Item 2, Stain B on TDCJ uniform shirt
4. Submission II, Item 4, Stain A on TDCJ uniform pants
5. Submission II, Item 4, Stain C on TDCJ uniform pants
6. Submission III, Item 5, Stain A on shirt
7. Submission III, Item 5, Stain B on shirt
8. Submission IV, Item I, Stain B on metal rod
9. Submission IV, Item 1, piece of blue plastic removed from metal rod

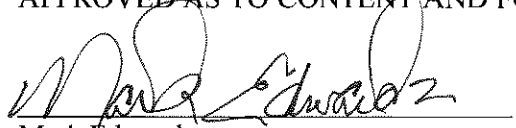
- 10. Submission IV, Item 1A, masking tape removed from metal rod
- 11. Submission I, Item 8, apparent blood drop found in the multi-purpose room of Building 3
- 12. Submission I, Item 11, apparent blood splatter
- 13. Submission I, Item 12, apparent blood drop
- 14. Submission I, Item 13, apparent blood stain
- 15. Submission I, Item 15, apparent blood drop

IT IS THEREFORE ORDERED that the piece of metal, also known as the shank, and the masking tape, which was removed from the shank, shall be immediately delivered to the Texas Department of Public Safety Crime Lab in Corpus Christi, Texas, and that those two items, along with all other items listed above that are already in the possession of said DPS lab, shall be further tested for any possible DNA analysis.

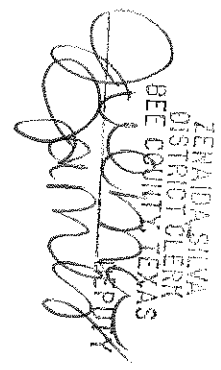
SIGNED AND ENTERED THIS 8 day of May, 2015.

  
 JUDGE PRESIDING BY ASSIGNMENT  
 156<sup>th</sup> District Court  
 Bee County, Texas

APPROVED AS TO CONTENT AND FORM:

  
 Mark Edwards  
 Special Prosecution Unit

  
 David Dow *by Mark Edwards w/ permission*  
 Attorney for **ROBERT LYNN PRUETT**

  
 ZENAIDA SILVA  
 DISTRICT CLERK  
 BEE COUNTY, TEXAS

FILED FOR RECORD  
 2015 MAY 11 PM 4:05



# Exhibit Q



STEVEN C. McCRAW  
DIRECTOR  
DAVID G. BAKER  
ROBERT J. BODISCH, SR.  
DEPUTY DIRECTORS

# TEXAS DEPARTMENT OF PUBLIC SAFETY

CRIME LABORATORY  
1922 S Padre Island Dr  
Corpus Christi, TX 78416  
Voice 361-698-5641 Fax 361-698-5574  
CorpusChristiCrimeLab@dps.texas.gov



COMMISSION  
A. CYNTHIA LEON, CHAIR  
MANNY FLORES  
FAITH JOHNSON  
STEVEN P. MACH  
RANDY WATSON

**Laboratory Case Number: L3C-66868**

**Supplemental DNA Laboratory Report**

Issue Date: June 25, 2015

Israel Brionez, Jr  
TDCJ Office of Inspector General  
966 Ofstie Road  
Beeville, TX 78102

**Agency Case Information:** Texas Dept. Of Criminal Justice Iad - 992560TDCJ

**Additional Agency Information:** TDCJ Office of Inspector General - 991217ML

**Offense Information:** Homicide - 12/17/1999 - Bee County

**Suspect(s):** PRUETT, ROBERT

**Victim(s):** NAGLE, DANIEL

**Submission Information:**

- 3 - 6X9 yellow envelope-RS on May 16, 2000 by Container provided by laboratory
- 02 - brown paper bag on May 12, 2015 by Brionez, J. VIA In Person
- 03 - 6x9 yellow envelope on May 12, 2015 by Brionez, J. VIA In Person
- 05 - brown paper bag on May 12, 2015 by Brionez, J. VIA In Person

**Requested Analysis:** Perform forensic DNA analysis.

This is a Supplemental Report. Please refer to the Supplemental Forensic Biology Laboratory Report for the biological screening results and the reports dated May 25, 2000, January 8, 2001, and January 15, 2002, for additional information regarding the results of analysis and the disposition of the evidence in this case.

**Evidence Description, Results of Analysis and Interpretation:**

Portions of the items were extracted by a method which yields DNA.

The DNA isolated was analyzed using STR (Short Tandem Repeat) PCR (Polymerase Chain Reaction) analysis. The following loci were examined: D8S1179, D21S11, D7S820, CSF1PO, D3S1358, TH01, D13S317, D16S539, D2S1338, D19S433, vWA, TPOX, D18S51, Amelogenin, D5S818, and FGA.

**02-01-AA-01 : DNA extract from Submission IV-item 1A-Masking tape removed from metal rod (Sample A)**

No DNA profile was obtained.

**03-01-AA-01 : DNA extract from Submission IV-item 1-Metal rod found on floor in Multi-purpose room of Building 3 (Sample C)**

The partial DNA profile obtained is consistent with the DNA profile of an unknown female individual.

Daniel Nagle and Robert Pruett are excluded as contributors to this DNA profile.

**05-01-AA-01 : DNA extract from Submission III-item 5-Shirt from Robert Pruett (Stain C)**

ACCREDITED BY THE AMERICAN SOCIETY OF CRIME LABORATORY DIRECTORS - LAB ACCREDITATION BOARD



The partial DNA profile obtained is consistent with the DNA profile of Robert Pruett. Robert Pruett cannot be excluded as the contributor of the profile at the loci: D8S1179, D21S11, D7S820, D3S1358, TH01, D13S317, D16S539, D19S433, vWA, TPOX, D18S51, Amelogenin, D5S818, and FGA. At these loci, the probability of selecting an unrelated person at random who could be the source of this DNA profile is approximately 1 in 467.1 trillion for Caucasians, 1 in 3.546 quintillion for Blacks, and 1 in 320.5 trillion for Hispanics. To a reasonable degree of scientific certainty, Robert Pruett is the source of this profile (excluding identical twins).

Daniel Nagle is excluded as a contributor of this DNA profile.

**05-01-AB-01 : DNA extract from Submission III-item 5-Shirt from Robert Pruett (Stain D)**

The partial DNA profile is consistent with the DNA profile of Robert Pruett. Robert Pruett cannot be excluded as the contributor of the profile at the loci: D8S1179, D21S11, D3S1358, TH01, D13S317, D19S433, vWA, Amelogenin, D5S818, and FGA. At these loci, the probability of selecting an unrelated person at random who could be a contributor to this DNA profile is approximately 1 in 39.95 billion for Caucasians, 1 in 31.32 trillion for Blacks, and 1 in 66.80 billion for Hispanics. The approximate world population is 7.0 billion.

Daniel Nagle is excluded as a contributor to this DNA profile.

**05-01-AC-01 : DNA extract from Submission III-item 5-Shirt from Robert Pruett (Stain E)**

The partial DNA profile is consistent with the DNA profile of Robert Pruett. Robert Pruett cannot be excluded as the contributor of the profile at the loci: D8S1179, D21S11, D3S1358, TH01, D13S317, D16S539, D19S433, vWA, TPOX, D18S51, Amelogenin, D5S818, and FGA. At these loci, the probability of selecting an unrelated person at random who could be a contributor to this DNA profile is approximately 1 in 52.85 trillion for Caucasians, 1 in 491.2 quadrillion for Blacks, and 1 in 57.54 trillion for Hispanics. The approximate world population is 7.0 billion.

Daniel Nagle is excluded as a contributor to this DNA profile.

**3-02-AA : DNA extract from Submission I-item 2-Pants found by the trash can in Building 3 Gym (Stain B)**

The DNA profile obtained is consistent with the DNA profile of Robert Pruett. The probability of selecting an unrelated person at random who could be the source of this DNA profile is approximately 1 in 47.17 quadrillion for Caucasians, 1 in 1.701 sextillion for Blacks, and 1 in 25.79 quadrillion for Hispanics. To a reasonable degree of scientific certainty, Robert Pruett is the source of this DNA profile (excluding identical twins).

Daniel Nagle is excluded as a contributor to this DNA profile.

**3-04-AA : DNA extract from Submission I-item 3-Pants found in bathroom trash can of Building 3 Gym (Stain B)**

The DNA profile obtained is consistent with the DNA profile of Robert Pruett. The probability of selecting an unrelated person at random who could be the source of this DNA profile is approximately 1 in 47.17 quadrillion for Caucasians, 1 in 1.701 sextillion for Blacks, and 1 in 25.79 quadrillion for Hispanics. To a reasonable degree of scientific certainty, Robert Pruett is the source of this DNA profile (excluding identical twins).

Daniel Nagle is excluded as a contributor to this DNA profile.

**3-08-AA : DNA extract from Submission I-item 8-Apparent blood drop found in the Multi-purpose room of Building 3**

The DNA profile obtained is consistent with the DNA profile of Daniel Nagle. The probability of selecting an unrelated person at random who could be the source of this DNA profile is approximately 1 in 570.5 quintillion for Caucasians, 1 in 13.27 sextillion for Blacks, and 1 in 14.49 sextillion for Hispanics. To a reasonable degree of scientific certainty, Daniel Nagle is the source of

this profile (excluding identical twins).

Robert Pruett is excluded as a contributor to this DNA profile.

**3-11-AA : DNA extract from Submission I-item 12-Apparent blood drop found in the Multi-purpose room of Building 3**

The DNA profile obtained is consistent with the DNA profile of Daniel Nagle. The probability of selecting an unrelated person at random who could be the source of this DNA profile is approximately 1 in 570.5 quintillion for Caucasians, 1 in 13.27 sextillion for Blacks, and 1 in 14.49 sextillion for Hispanics. To a reasonable degree of scientific certainty, Daniel Nagle is the source of this profile (excluding identical twins).

Robert Pruett is excluded as a contributor to this DNA profile.

**3-12-AA : DNA extract from Submission I-item 13-Apparent bloodstain found in the Multi-purpose room of Building 3**

The DNA profile obtained is consistent with the DNA profile of Daniel Nagle. The probability of selecting an unrelated person at random who could be the source of this DNA profile is approximately 1 in 570.5 quintillion for Caucasians, 1 in 13.27 sextillion for Blacks, and 1 in 14.49 sextillion for Hispanics. To a reasonable degree of scientific certainty, Daniel Nagle is the source of this profile (excluding identical twins).

Robert Pruett is excluded as a contributor to this DNA profile.

**3-14-AA : DNA extract from Submission I-item 15-Apparent blood drop found in the Multi-purpose room of Building 3**

The DNA profile obtained is consistent with the DNA profile of Daniel Nagle. The probability of selecting an unrelated person at random who could be the source of this DNA profile is approximately 1 in 570.5 quintillion for Caucasians, 1 in 13.27 sextillion for Blacks, and 1 in 14.49 sextillion for Hispanics. To a reasonable degree of scientific certainty, Daniel Nagle is the source of this profile (excluding identical twins).

Robert Pruett is excluded as a contributor to this DNA profile.

**3-20-AA : DNA extract from Submission II-item 2-Gray TDCJ Uniform shirt from Daniel Nagle (Stain B)**

The DNA profile obtained is consistent with the DNA profile of Daniel Nagle. The probability of selecting an unrelated person at random who could be the source of this DNA profile is approximately 1 in 570.5 quintillion for Caucasians, 1 in 13.27 sextillion for Blacks, and 1 in 14.49 sextillion for Hispanics. To a reasonable degree of scientific certainty, Daniel Nagle is the source of this profile (excluding identical twins).

Robert Pruett is excluded as a contributor to this DNA profile.

**3-21-AA : DNA extract from Submission II-item 4-Gray TDCJ Uniform pants and belt from Daniel Nagle (Stain A)**

The DNA profile obtained is consistent with the DNA profile of Daniel Nagle. The probability of selecting an unrelated person at random who could be the source of this DNA profile is approximately 1 in 570.5 quintillion for Caucasians, 1 in 13.27 sextillion for Blacks, and 1 in 14.49 sextillion for Hispanics. To a reasonable degree of scientific certainty, Daniel Nagle is the source of this profile (excluding identical twins).

Robert Pruett is excluded as a contributor to this DNA profile.

**3-23-AA : DNA extract from Submission II-item 4-Gray TDCJ Uniform pants and belt from Daniel Nagle (Stain C)**

The DNA profile obtained is consistent with the DNA profile of Daniel Nagle. The probability of selecting an unrelated person at random who could be the source of this DNA profile is approximately 1 in 570.5 quintillion for Caucasians, 1 in 13.27 sextillion for Blacks, and 1 in 14.49 sextillion for Hispanics. To a reasonable degree of scientific certainty, Daniel Nagle is the source of this profile (excluding identical twins).

Robert Pruett is excluded as a contributor to this DNA profile.

**3-37-AA : DNA extract from Submission III-item 5-Shirt from Robert Pruett (Stain A)**

The DNA profile obtained is consistent with the DNA profile of Robert Pruett. The probability of selecting an unrelated person at random who could be the source of this DNA profile is approximately 1 in 47.17 quadrillion for Caucasians, 1 in 1.701 sextillion for Blacks, and 1 in 25.79 quadrillion for Hispanics. To a reasonable degree of scientific certainty, Robert Pruett is the source of this DNA profile (excluding identical twins).

Daniel Nagle is excluded as a contributor to this DNA profile.

**3-38-AA : DNA extract from Submission III-item 5-Shirt from Robert Pruett (Stain B)**

The DNA profile obtained is consistent with the DNA profile of Robert Pruett. The probability of selecting an unrelated person at random who could be the source of this DNA profile is approximately 1 in 47.17 quadrillion for Caucasians, 1 in 1.701 sextillion for Blacks, and 1 in 25.79 quadrillion for Hispanics. To a reasonable degree of scientific certainty, Robert Pruett is the source of this DNA profile (excluding identical twins).

Daniel Nagle is excluded as a contributor to this DNA profile.

**3-40-AA : DNA extract from Submission IV-item 1-Metal rod found on the floor in the Multi-purpose room of Building 3 (Stain B)**

No DNA profile was obtained.

**3-41-AA : DNA extract from Submission IV-item 1-Metal rod found on the floor in the Multi-purpose room of Building 3 (Blue plastic debris)**

No DNA profile was obtained.

**3-43-AA : DNA extract from Submission V-item 1-Known blood sample from Robert Pruett**

The DNA profile was used for comparison purposes.

**3-44-AA : DNA extract from Submission VI-item 1-Known blood sample from Daniel Nagle**

The DNA profile was used for comparison purposes.

**3-51-AA : DNA extract from Submission I-item 11-Apparent blood spatter found in the Multi-purpose room of Building 3**

The DNA profile obtained is consistent with the DNA profile of Daniel Nagle. The probability of selecting an unrelated person at random who could be the source of this DNA profile is approximately 1 in 570.5 quintillion for Caucasians, 1 in 13.27 sextillion for Blacks, and 1 in 14.49 sextillion for Hispanics. To a reasonable degree of scientific certainty, Daniel Nagle is the source of this profile (excluding identical twins).

Robert Pruett is excluded as a contributor to this DNA profile.

**Investigative Leads and Requirements for Further Analysis:**

Please submit a known blood sample or buccal swabs from any potential female contributors for DNA analysis and comparisons.

**Disposition:**

The DNA extracts are being retained frozen in this laboratory.

This report has been electronically prepared and approved by:

Lisa Harmon Baylor  
Forensic Scientist IV  
Texas DPS Corpus Christi Crime Laboratory

# Exhibit R

L3C-66868

(03-01) 5/21/15 LMB

Sub III

Item #1: Metal rod found on the floor in the Multi purpose room of Building 3  
→ packed in properly sealed 6x9 yellow envelope

packaging

(03)

Bee County District Clerk

Robert Puett

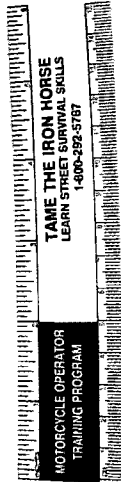
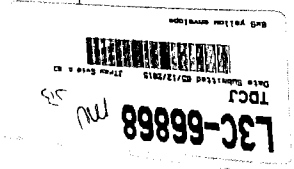
Capital Murder Case

Evidence - Metal Stick

Exhibit #

Released by:  
Deputy Clerk *Quinn James* 5/21/15  
Julissa James

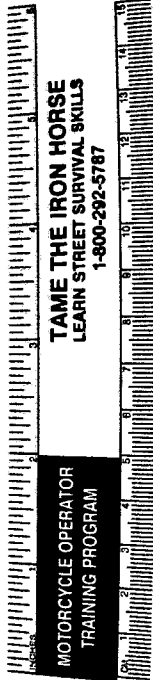
*Quinn James*



(03-01-AA)  
sample C - (A) swabbed to collect sample from marked surface area



- tested string TMB - Neg

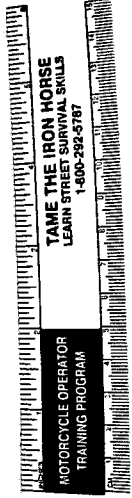


Deputy Clerk TMB  
Positive  
Negative +

(03)

*James*  
5/21/15 10:15am

*James*  
5/21/15





# Exhibit S

NO. B-01-17015-0-PR-B

BOND \$ 250,000 surety

THE STATE OF TEXAS VS. ROBERT LYNN PRUETT TDC# 754890

CHARGE: CAPITAL MURDER

Witnesses: B. Lazenby

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

**THE GRAND JURY**, for the County of Bee, State of Texas, duly selected, empaneled, sworn, charged, and organized as such at the January Term, A.D. 2001, of the 156<sup>th</sup> Judicial District Court for said County, upon their oaths present in and to said Court at said term that

**PARAGRAPH 1**

ROBERT LYNN PRUETT, hereinafter styled Defendant, on or about the 17<sup>th</sup> day of December, 1999, and before the presentment of this indictment, in the County and State aforesaid, did then and there intentionally or knowingly, while incarcerated in a penal institution, to-wit: the McConnell Unit of the Texas Department of Criminal Justice - Institutional Division, cause the death of an individual, DANIEL NAGLE, by stabbing DANIEL NAGLE about the body with a sharp pointed object, and the said ROBERT LYNN PRUETT did then and there cause the death of DANIEL NAGLE while the said DANIEL NAGLE was then and there employed in the operation of said Penal Institution;

**PARAGRAPH 2**

ROBERT LYNN PRUETT, hereinafter styled Defendant, on or about the 17<sup>th</sup> day of December, 1999, and before the presentment of this indictment, in the County and State aforesaid, did then and there intentionally or knowingly cause the death of another individual, namely: DANIEL NAGLE, by stabbing DANIEL NAGLE with a sharp pointed object, while the said ROBERT LYNN PRUETT was incarcerated in a penal institution, to-wit: the McConnell Unit of the Texas Department

of Criminal Justice - Institutional Division, and the said ROBERT LYNN PRUETT was incarcerated for the offense of Murder;

ENHANCEMENT PARAGRAPH 1

AND THE GRAND JURORS AFORESAID do further present that prior to the commission of the offense alleged above, on the 9<sup>th</sup> day of May, 1996, in Cause No. 707196, in the 339<sup>th</sup> District Court of Harris County, Texas, the said ROBERT LYNN PRUETT was convicted of the felony of FIRST-DEGREE MURDER, which conviction became final prior to the commission of the aforesaid offense,

**Against the Peace and Dignity of the State.**

*Elmora Eiler*  
\_\_\_\_\_  
Foreman of the Grand Jury

**OFFICE OF THE DISTRICT CLERK**

THE STATE OF TEXAS  
COUNTY OF BEEVILLE

I, ZENaida SILVA

CLERK OF THE DISTRICT COURT, IN AND FOR BEE COUNTY, STATE  
OF TEXAS, DO HEREBY CERTIFY THAT THE ABOVE AND FOREGOING ARE  
TRUE AND CORRECT COPIES OF ALL THE PROCEEDINGS IN THE CASE  
STYLED AND NUMBERED STATE OF TEXAS VS

ROBERT LYNN PRUETT TDCJ# 754890 CAUSE #B-15-M015-0-PR-B

WHICH ARE THE SAME AS APPEAR FROM THE ORIGINALS NOW ON FILE OF  
RECORD IN THIS OFFICE.

GIVEN UNDER MY HAND AND SEAL OF SAID COURT AT OFFICE IN THE  
CITY OF BEEVILLE, ON 3RD DAY OF AUGUST, 2016.



*ZENaida SILVA*  
ZENaida SILVA  
DISTRICT CLERK  
BEE COUNTY, TEXAS

District Clerk  
Sandra Clark  
P.O.Box 686  
Beeville, Texas 78104-0666  
(361) 362-3242



**COUNTY OF BEE**

105 W. Corpus Christi  
Rm 201  
Beeville, Texas 78102  
(361) 362-3282 (Fax)

**SHERIFF LARRY OLIVARES**  
**NUECES COUNTY SHERIFF'S OFFICE**  
**CORPUS CHRISTI, TEXAS**

**RE: CAUSE NO. B-01-M015-0-PR-B**  
**STATE OF TEXAS**  
**VS**  
**ROBERT LYNN PRUETT**

Dear Sheriff,

In accordance with Article 43.15 C.C.P. please deliver the attached Death Warrant concerning ROBERT LYNN PRUETT to the Texas Department of Criminal Justice Institutional Division to be delivered to the director, Gary Johnson, of the Texas Department of Criminal Justice-Institutional Division.

Please have the Director sign the receipt for the Death Warrant at the Place indicated on each copy and date the same. The copy designated for the Director of the Texas Department of Criminal Justice Institutional Division should be left with him. The copy designated Court's copy and all other copies will be returned to the Court at which time you should execute the Sheriff's Certificate and file them with the Court. The Court will then make distribution of all copies necessary.

Thank you for your cooperation.

Very Truly yours,

Judge Presiding

A handwritten signature in black ink, appearing to be "J. Priddy", written over the typed name "Judge Presiding".

Enc:

**JUDGMENT ATTACHED**

FILED: 30 Day Of April 2002  
at 3:05 o'clock 8 M. at Beeville, Texas  
SANDRA CLARK  
Clerk of the District Court of Bee County, Texas  
By Sandra Clark  
Deputy

CAUSE NO: B-01-M015-0-PR-B

THE STATE OF TEXAS

IN THE DISTRICT COURT

VS

OF BEE COUNTY, TEXAS

ROBERT LYNN PRUETT

156<sup>TH</sup> JUDICIAL DISTRICT

## JUDGMENT

DATE: APRIL 30, 2002

The Defendant having been indicted in the above entitled and numbered cause for the offense of Capital Murder, a Capital Felony, as charged in the indictment, and this cause being called for trial, the State appeared by her District Attorney, GEORGE P. MORRILL, II, and by the Assistant District Attorneys, HERBERT B. HANCOCK and AL HERNANDEZ and the Defendant, ROBERT LYNN PRUETT, appeared by both parties announced ready for trial, and the said Defendant in open court was duly arraigned and pleaded Not Guilty to the charges contained in the indictment herein; thereupon a jury, to wit, Presiding Juror, SCOTT LEE CARRIGAN and eleven others, plus two alternate jurors, was duly selected, impaneled and sworn, and who, having heard the indictment read, and the Defendant's plea of Not Guilty thereto, and having heard the evidence submitted, and having been duly charged by the Court, and after hearing argument of counsel, and the alternate jurors having been discharged, retired in charge of the proper officer to consider their verdict and afterward were brought into open Court by the proper officer, both the Defendant and his counsel being present, and in due form of law returned into open Court the following verdict, which was received by the Court, and is here now entered upon the minutes of the Court, to wit:

### 1. CAPITAL MURDER

We, the Jury, find the Defendant, ROBERT LYNN PRUETT, GUILTY of Capital Murder, as charged in the indictment.

/s/SCOTT LEE CARRIGAN  
PRESIDING JUROR

Thereupon, further evidence being heard by the jury on the special issued pertaining to punishment, the Court again charged the jury as provided by law; and, the jury, after hearing arguments of counsel, retired in charge of the proper officer to

consider their verdict and afterwards was brought into open Court by the proper officer, both the Defendant and his counsel being present, and in due form of law returned into open Court the following verdict, which was received by the Court and is here and now upon sentence is suspended until the decision of the Court of Criminal Appeals has been received by this Court.

The Defendant is now remanded to the custody of the Sheriff of NUECES County, Texas, to be transported by the Texas Department of Criminal Justice Institutional Division to the Texas Department of Criminal Justice-Institutional Division at Huntsville, Texas, there to await the action of the Court of Criminal Appeals and the further orders of this Court.

Whereupon, the Court advised the defendant fully as to his right of appeal, and the said defendant was remanded into custody of the Texas Department of Criminal Justice-Institutional Division until the Texas Department of Criminal Justice-Institutional Division can obey the directions of this sentence.

DATE OFFENSE COMMITTED: DECEMBER 17, 1999

DEADLY WEAPON USED OR EXHIBITED? YES

  
HONORABLE JOAQUIN VILLARREAL III  
JUDGE PRESIDING

RIGHT THUMB PRINT



FILED: 30 Day Of April 2002  
at 3:05 o'clock P. M. at Beaville, Texas  
SANDRA CLARK  
Clerk of the District Court of Bee County, Texas  
By Sandra Clark  
Deputy

AND WHEREAS, in the 156<sup>TH</sup> Judicial District Court of BEE County, Texas, the defendant ROBERT LYNN PRUETT, was duly and legally sentenced to death by the Court in the appearance of his attorneys on the 30<sup>TH</sup> day of APRIL, 2002: as fully appears in the Sentence of the Court entered upon the minutes of said Court, as follows, to wit:

SENTENCED THE 30<sup>TH</sup> DAY OF APRIL, 2002, ATTACHED

### SENTENCE

THIS DAY this cause being again called, the State appeared by her District Attorney, GEORGE P. MORRILL, II, and by the Assistant District Attorneys HERBERT B. HANCOCK and ALFRED E. HERNANDEZ, and the Defendant ROBERT LYNN PRUETT, was brought into open Court in person, in charge of the Texas Department of Criminal Justice-Institutional Division, together with counsel, JOHN GILMORE and JOSEPH COLLINA, for the purpose of having the sentence of the law pronounced against him in accordance with the verdict and the judgment herein rendered and entered against him on this date.

And thereupon the said Defendant was asked by the Court whether he had anything to say why sentence should not be propounded against him, and he answered nothing in bar thereof. Whereupon the Court proceeded, in the presence of the said Defendant to pronounce sentence against him as follows to-wit: "It is the Order of the Court that the Defendant, ROBERT LYNN PRUETT, who has been adjudged guilty of Capital Murder, a Capital Felony, and whose punishment has been assessed as Death, be delivered by the Texas Department of Criminal Justice-Institutional Division, to the Director of the Texas Department of Criminal Justice-Institutional Division of the State of Texas, or other person legally authorized to receive such inmate, and said Defendant shall be there confined until his sentence of death can be properly carried out by law governing such punishment."

IT IS THEREFORE the ORDER of the Court that the Defendant is sentenced to death; but the law further providing for an automatic appeal to the Court of Criminal Appeals of the State of Texas, the minutes of the Court, to wit:

### SPECIAL ISSUE NO. 1

Do you find from the evidence beyond reasonable doubt that there is a probability that the Defendant, ROBERT LYNN PRUETT, would commit criminal acts of violence that would constitute a continuing threat to society?



**ANSWER**

We, the Jury, unanimously find and determine beyond a reasonable doubt that the answer to this Special Issue is "Yes".

**/s/SCOTT LEE CARRIGAN**  
FOREPERSON OF THE JURY

**SPECIAL ISSUE NO. 2**

Do you find from the evidence, taking into consideration all of the evidence, including the circumstances of the offense, the defendant's character and background, and the personal moral culpability of the defendant, that there is sufficient mitigating circumstances to warrant that a sentence of life imprisonment rather than death sentenced be imposed?

**ANSWER**

We, the Jury, unanimously find that the answer to this Special Issue is "No".

**/s/SCOTT LEE CARRIGAN**  
FOREPERSON OF THE JURY

It is therefore considered and adjudged by the Court that the said Defendant is guilty of the felony offense of Capital Murder, a Capital Felony, as charged in the indictment, as found by the Jury, and that he be punished, as has been determined by the Jury, by death, according to the law.

  
**HONORABLE JOAQUIN VILLARREAL III**  
JUDGE PRESIDING

**RIGHT THUMB PRINT**



FILED: 30 Day Of April 2002  
at 2:05 o'clock PM M. at Beeville, Texas  
SANDRA CLARK  
Clerk of the District Court of Bee County, Texas  
By Sandra Clark  
Deputy

Vol A-63 pg 591-597

**OFFICE OF THE DISTRICT CLERK**

THE STATE OF TEXAS  
COUNTY OF BEEVILLE

I, ZENAIDA SILVA

CLERK OF THE DISTRICT COURT, IN AND FOR BEE COUNTY, STATE  
OF TEXAS, DO HEREBY CERTIFY THAT THE ABOVE AND FOREGOING ARE  
TRUE AND CORRECT COPIES OF ALL THE PROCEEDINGS IN THE CASE  
STYLED AND NUMBERED STATE OF TEXAS VS

ROBERT LYNN PRUETT TDCJ# 754890 CAUSE #B-15-M015-0-PR-B

WHICH ARE THE SAME AS APPEAR FROM THE ORIGINALS NOW ON FILE OF  
RECORD IN THIS OFFICE.

GIVEN UNDER MY HAND AND SEAL OF SAID COURT AT OFFICE IN THE  
CITY OF BEEVILLE, ON 3RD DAY OF AUGUST, 2016.



*ZENAIDA SILVA*  
ZENNAIDA SILVA  
DISTRICT CLERK  
BEE COUNTY, TEXAS

Cause No. B-01-M015-0-PR-B

THE STATE OF TEXAS                    §    IN THE 156<sup>TH</sup>  
DISTRICT  
VS.   §   COURT OF  
ROBERT LYNN PRUETT                   §   BEE COUNTY, TEXAS

ORDER MODIFYING EXECUTION DATE

The Texas Court of Criminal Appeals having affirmed the prisoner's conviction, the United States Supreme Court having denied certiorari review, and mandate having issued, the prisoner's conviction is now final. See *Pruett v. State*, No. 74,370, 2004 WL 3093232 (Tex. Crim. App. September 22, 2004). The prisoner's original application for habeas corpus relief has been denied by the Court of Criminal Appeals. See *Ex parte Pruet*, 207 S.W.3d 767 (Tex. Crim. App. 2005). Similar relief has been denied by the District Court for the Southern District of Texas. See *Pruett v. Thaler*, No. C-06-CA-465-H (S.D. Tex. August 12, 2010), certificate of

*appealability denied*, No. 10-70,024 (5<sup>th</sup> Cir. 2011, opinion not published), *cert. denied*, No. 11,0297 (2012). Subsequent applications for writs of habeas corpus have been dismissed or denied by the Texas Court of Criminal Appeals. Furthermore, post-conviction DNA analysis and post-conviction palm print comparisons have been concluded. The post-conviction DNA analysis results were inconclusive. The post-conviction palm print search was performed with negative results.

One or more orders setting execution date have previously issued. **The Court hereby rescinds all prior Orders Setting Execution Date and issues this Order setting a new execution date.**

Pursuant to Texas Code of Criminal Procedure Art. 43.141(a)(1) and 43.141(c), this Court now enters the following order:

IT IS ORDERED that the prisoner, ROBERT LYNN PRUETT, who has been adjudged guilty of Capital Murder as charged in the indictment and whose punishment has been assessed by the verdict of the jury and the

judgment of the Court as death, shall be kept in custody by the Director of the Institutional Division of the Texas Department of Criminal Justice at Huntsville, Texas, until **Thursday, October 12, 2017**, upon which day, at the Institutional division of the Texas Department of Criminal Justice at Huntsville, Texas, at any time after 6:00 p.m., in a room arranged for the purpose of execution, the Director, acting as provided by law, is commanded to carry out this sentence of death by intravenous injection of a substance or substances in a lethal quantity sufficient to cause the death of ROBERT LYNN PRUETT and until ROBERT LYNN PRUETT is dead, such procedure to be determined and supervised by the Director of the Institutional Division of the Texas Department of Criminal Justice.

**THE CLERK OF THIS COURT SHALL, pursuant to Arts. 43.141 and 43.15 of the Code of Criminal Procedure, send a certified copy of this Order and the Subsequent Death Warrant within two (2) days of the signing of**

**this Order, via e-mail, fax, or U.S. mail, return receipt requested, to the following:**

(1) Joni White, Assistant Director, Classifications and Records Division of TDCJ-ID, P O Box 99, Huntsville, Texas 77342-0099;

(2) Jay Clendenin, Assistant Attorney General, Attorney General's Office, 300 W. 15<sup>th</sup> St., Austin, Texas 78701;

(3) Abel Acosta, Clerk, Court of Criminal Appeals, P O Box 12308, Capitol Station, Austin, Texas 78711;

(4) David Dow, Attorney for Robert Lynn Pruett, University of Houston Law Center, 4604 Calhoun Road, Houston, Texas 77204-6060;

(5) Maria Ramirez, Board of Pardons and Paroles Executive Clemency Unit, 8610 Shoal Creek, Austin, Texas 78758;

(6) Melinda Fletcher, Special Prosecution Unit, P O Box 1744, Amarillo, Texas 79105; and

(7) Office of Capital Writs, 1700 N. Congress, Suite 460, Austin, Texas 78701.

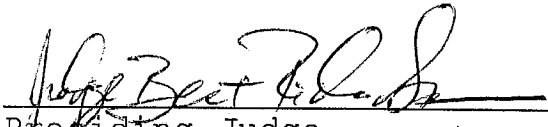
**THE CLERK OF THIS COURT SHALL, within ten days after the Court enters this Order Setting Execution, issue and deliver to the Sheriff of Bee County, Texas, a certified copy of this Order along with a Death Warrant in accordance with Texas Code of Criminal Procedure Art. 43.15. The Death Warrant shall recite**

(1) the fact of conviction, (2) set forth the specific offense, (3) the judgment of the Court, and (4) the time fixed for execution. The Death Warrant shall be directed to the Director of the Institutional Division of the Texas Department of Criminal Justice at Huntsville, Texas, and command the Director to proceed to put into execution the judgment of death against ROBERT LYNN PRUETT.

THE SHERIFF OF BEE COUNTY, TEXAS, IS ORDERED, upon receipt of the Death Warrant, to deliver the Death Warrant and a certified copy of this Order to the Director of the Institutional Division of Texas Department of Criminal Justice, Huntsville, Texas.

SIGNED AND ENTERED this 21 day of June,

20 17  
JUN 21 2017 8:55 AM  
FILED FOR RECORD  
2017 JUN 21 AM 8:55  
JULY 10 2017

  
\_\_\_\_\_  
Presiding Judge  
156<sup>th</sup> District Court  
Bee County, Texas  
*by assignment*

Cause No. B-01-M015-0-PR-B

THE STATE OF TEXAS                    §                    IN THE 156<sup>TH</sup>  
DISTRICT  
VS.                                       §                    COURT OF  
ROBERT LYNN PRUETT                   §                    BEE COUNTY, TEXAS

SUBSEQUENT DEATH WARRANT

TO THE DIRECTOR OF THE INSTITUTIONAL DIVISION OF THE  
TEXAS DEPARTMENT OF CRIMINAL JUSTICE AND TO THE SHERIFF  
OF BEE COUNTY, TEXAS:

On or about the 23<sup>rd</sup> day of April, 2002, the above-named defendant, in the above-styled and numbered cause, was convicted of the offense of capital murder. On the 30<sup>th</sup> day of April, 2002, the Court sentenced ROBERT LYNN PRUETT to death in accordance with the findings of the jury, pursuant to the Texas Code of Criminal Procedure.

The Court, having received the Court of Criminal Appeals' mandate affirming ROBERT LYNN PRUETT's conviction for Capital Murder and having received notice of the Court of Criminal Appeals' denial of ROBERT LYNN PRUETT's initial application for writ of habeas corpus, if such application was timely filed, sentenced ROBERT LYNN PRUETT to death for the offense of Capital Murder and **hereby (1) WITHDRAWS any and all death warrants previously issued; and (2) ORDERS that the execution be had on Thursday, October 12, 2017, at any time after the hour of 6:00 p.m. at the Institutional Division of the Texas Department of Criminal Justice at Huntsville, Texas.**

The Sheriff of Bee County, Texas, is hereby commanded to transport ROBERT LYNN PRUETT to the



Institutional Division of the Texas Department of Criminal Justice and deliver ROBERT LYNN PRUETT and this warrant to the Director of the Institutional Division of the Texas Department of Criminal Justice for the purpose of executing this warrant, and to take from Director the proper receipt for ROBERT LYNN PRUETT, and the sheriff will return the receipt to the office of the District Clerk of Bee County, Texas.

The Director of the Institutional Division of the Texas Department of Criminal Justice is hereby commanded to receive from the Sheriff the defendant and his warrant, and to give his receipt to the Sheriff, and to safely keep the defendant and execute the sentence of death at any time after the hour of 6:00 p.m. on the day and date specified in paragraph two of this warrant, by causing a substance or substances in a lethal quantity to be intravenously injected into the body of ROBERT LYNN PRUETT to continue until ROBERT LYNN PRUETT is deceased, obeying all laws of the State of Texas with reference to such execution.

Witness my hand and seal of the 156<sup>th</sup> District Court of Bee County, Texas, at my office in the City of Beeville, Texas, on the 21<sup>st</sup> day of June, 2017.



*Zenaidé Silva*  
Zenaidé Silva  
District Clerk  
Bee Co. Tx

**SHERIFF' S RETURN**

The above and foregoing Subsequent Death Warrant came to hand on the \_\_\_\_\_ day of \_\_\_\_\_, 2017, and immediately upon receipt, said Subsequent Death Warrant was taken to the Texas Department of Criminal Justice, Institutional Division, at Huntsville, Texas, and delivered into the hands of the Director of the Texas Department of Criminal Justice, Institutional Division, and from the said Director a receipt was taken for the Subsequent Death Warrant as follows:

"Received from the Sheriff of Bee County, Texas, a Subsequent Death Warrant for the Execution of the Death Sentence to be executed upon ROBERT LYNN PRUETT in Cause Number B-01-M015-0-PR-B, in the 156<sup>th</sup> Judicial District Court of Bee County, Texas."

Date: \_\_\_\_\_

\_\_\_\_\_  
Director  
Texas Dept. Criminal Justice  
Institutional Division  
Huntsville, Texas

Which said receipt I now return to the office of the Clerk of the 156<sup>th</sup> Judicial District Court of Bee County, Texas, this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Sheriff, Bee County, Texas

CERTIFICATE OF THE DIRECTOR OF THE TEXAS DEPARTMENT OF  
CRIMINAL JUSTICE, INSTITUTIONAL DIVISION

I hereby certify that the said Subsequent Warrant of Execution in the cause of the State of Texas vs. ROBERT LYNN PRUETT, issued in the 156<sup>th</sup> District Court of Bee County, Texas, on the \_\_\_\_\_ day of \_\_\_\_\_, 2017, was executed according to the laws of the State of Texas on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_. The death of ROBERT LYNN PRUETT was caused by intravenous injection of lethal substances at the Huntsville Unit of the Texas Department of Criminal Justice Institutional Division at \_\_\_\_\_ o'clock \_\_\_\_m. on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_. The body of the deceased was given into \_\_\_\_\_ the \_\_\_\_\_ custody of: \_\_\_\_\_, agent for the requesting relative. This certificate and Return of Subsequent Death Warrant is in compliance with Article 43.23 of the Texas Code of Criminal Procedure.

\_\_\_\_\_  
Director  
Texas Dept. Criminal Justice  
Institutional Division  
Huntsville, Texas

Subscribed and Sworn to before me this \_\_\_\_\_ day  
of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public in and for the  
State of Texas

**RETURN OF THE DIRECTOR OF  
THE TEXAS DEPARTMENT OF CRIMINAL JUSTICE**

Came to hand, this the \_\_\_\_\_ day of \_\_\_\_\_, 2017, and executed the \_\_\_\_\_ day of \_\_\_\_\_, 2017, by the death of

**ROBERT LYNN PRUETT**

DISPOSITION OF BODY:

Date:

Time:

*[Faint, illegible text and stamps, possibly a signature or official seal, located in the bottom left corner of the page.]*

\_\_\_\_\_  
Director  
Texas Dept. Criminal Justice  
Institutional Division  
Huntsville, Texas

# Exhibit T

STATE OF TEXAS        )  
                                  )  
COUNTY OF NUECES    )

**Affidavit of Jennifer Barnes**

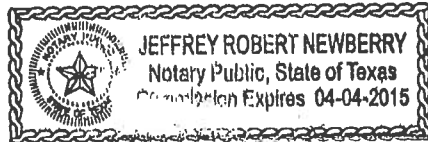
1. My name is Jennifer Barnes. I am over the age of eighteen and am otherwise competent to give this affidavit.
2. I served as a juror in Robert Pruett's 2002 capital murder trial.
3. At his trial, I would have considered evidence of his mother molesting him and his father physically abusing him to have been mitigating.
4. I have now been shown affidavits from Nancy Scott, Troy McLain, Michelle Perrault, Bonnie McLain, and Donnie Creed.
5. Robert Pruett's attorneys did not present testimony about the sexual abuse and physical abuse contained in these affidavits.
6. The testimony in these affidavits is the type of evidence I would have considered to be mitigating circumstances when answering the second special issue of whether there were sufficient mitigating circumstances to sentence Robert Pruett to life in prison instead of to death.

I declare under penalty of perjury that the foregoing is true and correct. Executed on this 4 day of May, 2013.

Jenny Barnes  
Declarant

Signed and sworn before me this 4<sup>th</sup> day of May, 2013.

[Signature]  
Notary Public, State of Texas

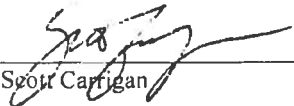


STATE OF TEXAS        )  
                                  )  
COUNTY OF NUECES    )

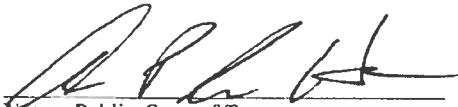
**Affidavit of Scott Carrigan**

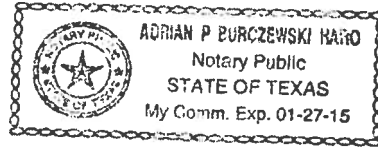
1. My name is Scott Carrigan. I am over the age of eighteen and am otherwise competent to give this affidavit.
  2. I served as a juror in Robert Pruett's 2002 capital murder trial. I was elected the foreman of the jury. As the foreman, several of the jurors looked to me for guidance during deliberations.
  3. The kind of evidence I would have considered to be mitigating during the punishment phase of Robert Pruett's capital murder trial is evidence that Robert Pruett and was physically and sexually abused as a child.
  4. Mr. Pruett's attorneys did not present any evidence that he had been physically or sexually abused during the trial.
  5. I have now been shown affidavits from Nancy Scott, Troy McLain, Michelle Perrault, Bonnie McLain, Charles Nash, Tommy Henson, Tammie Pruett, and Donnie Creed. If the evidence presented in these affidavits had been presented at trial, I would have answered the second special issue, the mitigation question, differently.
  6. Had the testimony contained in these affidavits been presented at trial, I would have answered that there were sufficient mitigating circumstances to sentence Robert Pruett to life in prison instead of to death.
  7. Had evidence been presented during the guilt/innocence stage of Robert Pruett's capital murder trial that the informants that testified for the State had been promised things such as being transferred out of state or receiving other special treatment that was not disclosed at trial, that evidence would have influenced the degree to which informant testimony influenced my decision.
  8. Had evidence been presented at trial that inmates that desired to testify for Robert Pruett had been physically abused or received other negative treatment because of their desire to testify for Pruett instead of for the State, this, too, would have influenced the degree to which inmate testimony influenced my decision.
  9. Because the State's case relied so heavily on inmate testimony, it is reasonably probable that had evidence similar to that described in paragraphs seven and eight been presented at trial, my decision would have different.
-

I declare under penalty of perjury that the foregoing nine paragraphs are true and correct.  
Executed on this 10 day of June, 2014.

  
\_\_\_\_\_  
Scott Carrigan

Signed and sworn before me this 10 day of June, 2014.

  
\_\_\_\_\_  
Notary Public, State of Texas





**AFFIDAVIT OF \_\_\_\_\_**

I am over the age of eighteen and competent to give this affidavit.

1. my name is \_\_\_\_\_ . I served as a juror  
in Robert Pruett's 2002 capital murder trial.  
I do not feel comfortable revealing my identity  
at this time.
  
2. The kind of evidence I would have considered as  
mitigating are evidence of physical abuse and  
molestation. This attorneys did not present any evidence  
like this at trial.
  
3. I have now been shown affidavits from Nancy Scott,  
Troy McLain, Michelle Perrault, Bonnie McLain, and  
Donnie Creed. If the evidence presented in these  
affidavits had been presented at trial, I would have  
answered the second special issue differently. I would  
have answered that there were sufficient mitigating  
circumstances to sentence Robert Pruett to life rather than death.
4. \_\_\_\_\_  
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I declare under penalty of perjury that the foregoing is true and correct. Executed on this 20 day of April, 2013.

XX  
\_\_\_\_\_  
Declarant

Signed and sworn before me this 20 day of April, 2013.

[Signature]  
\_\_\_\_\_  
Notary Public, State of Texas



AFFIDAVIT OF Gilberto Trevino

I am over the age of eighteen and competent to give this affidavit.

1. my name is Gilberto Trevino. I served as a juror  
in Robert Pruett's 2002 capital murder trial.  
\_\_\_\_\_  
\_\_\_\_\_
2. At his trial, I would have considered evidence  
of the molestation and physical abuse he endured  
to have been mitigating.  
\_\_\_\_\_  
\_\_\_\_\_
3. I've been shown affidavits from Nancy Scott,  
Troy McLain, Michelle Perrault, Bonnie McLain, and  
Donnie Creed.  
\_\_\_\_\_  
\_\_\_\_\_
4. If I would have been presented this evidence, it  
would have influenced my decision to sentence  
him to death.  
\_\_\_\_\_  
\_\_\_\_\_
5. Robert Pruett's attorneys did not present  
testimony like this.  
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GJ  
Initial

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I declare under penalty of perjury that the foregoing is true and correct. Executed on this 20 day of April, 2013.

  
Declarant

Signed and sworn before me this 20 day of April, 2013.

  
Notary Public, State of Texas



# Exhibit U

May 2, 2013

To Whom It May Concern:

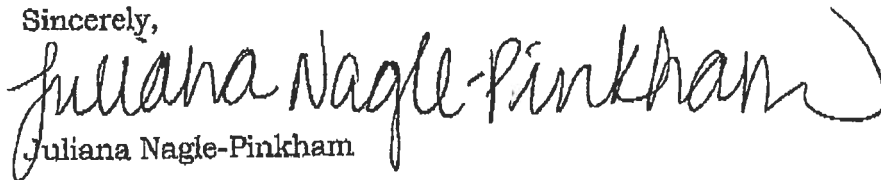
I understand that my uncle, Daniel Nagle's murderer is supposed to be executed later this month. I also understand that, while this man is a murderer and a criminal, he is still a human.

He caused my family so much pain and though although I was only a young child, I could see the hurt in my mother's eyes and in her expressions. This man destroyed a family, but sentencing him to death destroys another family, his own. I cannot help but think about this man's mother and I know from experience the hurt that will fill her eyes and the sorrow that will become her expression.

Ever since I was old enough to understand morals and the difference between right and wrong, my parents have always tried to justify and explain their reasons for doing things but what is happening here cannot be easily explained. In our case, a man killed my uncle and his punishment is supposed to be death. Someone might say, "Well, it's an eye for an eye" but it really isn't. How is our sentencing another human being to death any different from what my uncle's murderer did? What the death penalty does is murder but with the government's permission.

How can we say that what we are doing is legal and appropriate and when he did the same thing and it is illegal and wrong? Two wrongs don't make a right and they definitely won't bring my uncle back. His murderer is a criminal and deserves life without parole but nobody deserves to die.

Sincerely,

  
Juliana Nagle-Pinkham

Age 16

Board of Pardons and Paroles

Dear Sir/Madam;

My name is Della Nagle. My younger brother Daniel Nagle was murdered by Mr. Robert Pruett in 1999 for which he was subsequently found guilty and sentenced to die. Mr. Pruett's execution date has been set for May 21<sup>st</sup>, 2013.

I know that lots of people would think that I would support this execution because of what he did to my brother and but that is not how I feel. In my opinion, I feel very strongly that he should have his sentence commuted to life in prison without the possibility of parole.

Experiencing the loss of my brother has caused me to rethink a lot of what I used to believe was true. I know the hole that has been left in my family's life because Daniel is no longer with us. My children have grown up not knowing their uncle and my life continues to be more empty without him. It is against my beliefs as a Christian person to be party to another person's death and to allow Mr. Pruett to be killed in retribution for my brother's death makes me party to his death. As Ghandi so appropriately said, "An eye for an eye leaves the whole world blind." I feel that state sanctioned murder is still murder. I find myself feeling very guilty for not haven gone to the sentencing hearing to state these views and so I am writing to you know to express them.

If killing Mr. Pruett would bring my brother back and take away my family's pain, I might be inclined to be in favor of it but that will never happen. All killing Mr. Pruett will do is leave an empty hole in another family and break another parent's heart.

Again, I am asking you, please do not kill Mr. Pruett even though he is guilty of the crime of murder.

Sincerely,

Della Nagle