

OPEN LETTER NO. 2

March 4, 2002

**To: Twelfth Court of Appeals
1517 West Front Street, Suite 354
Tyler, Texas 75702**

CERTIFIED MAIL

Hon. Leonard Davis, Chief Justice
Hon. Jim Worthen, Justice
Hon. Sam Griffin, Justice
Kathy Lusk, Clerk
Katrina McClenny, Chief Deputy Clerk

RE: Case Number 12-01-00281-CV
Trial Court Case Number: 00-00619
"reasonable explanation" as requested by your Feb. 26, 2002 letter (attached)

Style: You got the style all incorrect
(See my Jan. 25, 2002 Open Letter, attached)

Honorable Judges and Clerks:

I thought I had done a thorough job of explaining as to why I could not follow through with my appeal at this time by reason of **indefinite continuance** by the 294th District Court to **defraud me of honest service**. (See my Jan. 25, 2002 Open Letter, attached).

I again ask this Court for an **honest, honorable, and open** re-consideration of my *Petition for Writ of Mandamus* (12-01-00324-CV, Nov. 7, 2001, denied Nov. 9, 2001, less the 320 pages of exhibits previously provided). My Petition clearly shows that the District Court is not abiding by the **rules of procedure, statutory law, and the mandates of the Supreme Court of the United States**. We are not in Angola or Afghanistan.

I move that you refer this entire matter to the Justice Department. The stench is "objectively unreasonable". There is ongoing rigging of the process. Racketeering is the only "reasonable explanation".

Public servants defrauding of "**honest service**" violates the Racketeer Influenced Corrupt Organization Statute 18 U.S.C. § 1961 *et seq.* ("RICO") as a matter of law:

"In 1997, The Fifth Circuit, sitting en banc, held that, by enacting [18 U.S.C.] § 1346, Congress intended to protect the intangible right of **honest services** from wire fraud schemes by **state actors**. See *United States v. Brumley*, 116 F.3d 728, 733 (5th Cir. 1997)

("fraud statutes cover the deprivation of intangible rights."). Brown vs. Nationsbank, 5th Cir. Sept. 8, 1999.

"The statute contemplates that there must first be a **breach of state-owed duty**. . . . Stated another way, "**honest services**" contemplates that in rendering some particular service or services, the defendant was conscious of the fact that his actions were something less than in the best interest of the employer - - or that he **consciously contemplated or intended** such actions." United States v. Brumley, 116 F.3d 728, 7323 (5th Cir. 1997, en banc



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att: Letter from 12th Court of Appeals (Feb. 26, 2002)
Open Letter to 12th COA (Jan. 25, 2002)
Petition for Writ of Mandamus and Temporary Relief (Nov. 7, 2001)

cc: Nancy Young, 294th District Clerk
G. David Westfall
Frank C. Fleming