

CAUSE NO. GN1-00142

Edmund B. Heimlich, Unrepresented	§	IN THE DISTRICT COURT OF
Human Person, Texas Citizen	§	
American Citizen, Ex Rel	§	
The people of the STATE OF TEXAS	§	
Plaintiff / Petitioner	§	TRAVIS COUNTY, TEXAS
	§	
V.	§	
	§	
STATE OF TEXAS, by and through	§	
GREG ABBOTT, the Attorney General	§	200 <sup>TH</sup> JUDICIAL DISTRICT
Defendant / Respondent	§	

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**Brief Requested by Judge Suzanne Covington  
On the Definition of 'Actual Innocence' with  
Petition to Suzanne Covington to Show Cause  
For refusal to perform the duties of the Office to which she has been  
entrusted, And  
Petition for Injunctive Relief**

I, Edmund B. Heimlich, the plaintiff herein, ("Heimlich", "I", "me", "my", petitioner", "plaintiff"), in response to the request made at the Hearing on my Motion for a No Evidence Summary Judgment, submit to the Record of this, my Court of Original and Exclusive Jurisdiction, this brief on the Constitutionally Mandated definition of "Actual Innocence" with Petition for Injunctive Relief from the effort of the Office of the Attorney General, by and through Seth Byron Dennis, to close the door to my court in violation of the Texas Constitution, Article I, Section 13, which mandates:

**"All courts shall be open, and every person for an injury done him, in his lands, goods, person or reputation, shall have remedy by due course of law".**

**Request for Injunctive Relief**

The defendant, the State of Texas as the People of the State of Texas, their Constitution, and their Laws, have stipulated their agreement that the treasury of the State be opened to payment of Remedy, to me, for the Wrongful Imprisonment I have suffered. Counsel designated to represent them has no evidence that would defeat the assertion of strict-liability and, in a display of disrespect to the mandates of the people and the

Constitution that protects the people, opposing counsel is seeking to delay and obstruct justice for self-serving purposes of burdening their client with additional costs.

Counsel designated to represent the defendant has been given an opportunity to present evidence and has not. Counsel cannot and counsel knows he cannot. Evidence of 'Actual Guilt' does not exist that would defeat the assertion of 'Actual Innocence'. This has been predetermined by the Law of the Case established in the opinion and judgment of the Fourteenth Court of Appeals for this State on finding the elements of a crime did not exist and that I, Edmund B. Heimlich did not commit a violation of the Texas Penal Code and by the opinion, judgment, and mandate of the Third Court of Appeals.

**Wherefore I Petition to Judge Suzanne Covington to perform her duty to the Constitution and Laws of this State with entry of an injunction against the Attorney General's efforts to close the Court in denial of my Constitutional Right to Remedy.** In support of this injunction, and in support of this brief, I incorporate, by reference, the work of the Honorable Chief Justice of the Texas Supreme Court, Tom Phillips, submitted into the record at the hearing of July 16, 2003, as if fully restated herein.

**'Actual Innocence' and Demand to Show Cause**

By dicta of the United States Supreme Court the definition of Actual Innocence has been established. More importantly for this case, in this State, the definition of Actual Innocence has been established by dicta of the founders of this great State in the Constitution to which the Defendant, and the Judge of this proceeding, is duty bound to honor. Counsel for the defendant, and the defendant (however defined – be it "the People", "the Constitution", or "the government") are without jurisdiction to deny plaintiff his Rights established in the Constitution of the State, by Article 1, Section 29, as **"excepted from the powers of government; forever to remain inviolate"**.

Accordingly, the Judge of this proceeding, Suzanne Covington, is without discretion to deny the claim and must, as a duty of Oath and Office, enter judgment for the plaintiff on the issue of strict-liability of the defendant pursuant to the dicta of the Defendant, as the People of the State of Texas by and through their Legislature, in Chapter 103 of the Texas Civil Practice & Remedies Code ("TCPRC").

The Defendant, as the people of the State of Texas, is also a Co-Plaintiff in this Action in Law, Constitution and Laws. The people have stipulated the duties of the

Office of a Judge for this State, in this Court. It is not within the province of the authority of any Judge in this State to compile a jury to act as government, conferring on this collective the authority to abrogate, abridge, nullify, or circumvent, the mandates of the Constitution and Laws of this State. It would not be within the province of the authority of any jury to enter a finding other than 'actual innocence' as it would require a nullification of the Constitution. The counsel designated to represent the defendant may hope the judge assigned to the court will join him in a collusive effort to compile a jury, to whom they might then delegate authority of government over and above the limitations of their own Constitution, but it would be a crime of the most serious nature to do so.

Therefore, in honor of the People of this great State, I, an equal representative of the People of this, as the State of Texas, acting on their behalf, demand entry of judgment pursuant to mandate of the People and, failing to enter said judgment, demand Suzanne Covington show cause for the refusal to perform the duties of her Office.

**Wherefore I Petition Suzanne Covington to show cause for her refusal to perform her duty of the submission of this brief should she fail to do so within ten (10) days of this filing.**

## **THE BRIEF ON THE DEFINITION OF 'ACTUAL INNOCENCE'**

### **Background for Brief on 'Actual Innocence'**

On or about June 23, 2003 I submitted into the Record a Rule 166 Motion for No Evidence Summary Judgment on the issue of the Strict-liability of the Defendant for Wrongful Imprisonment as mandated by Texas Civil Practice & Remedies Code, Chapter 103, pursuant to the Opinion and Mandate of the Texas Third Court of Appeals.

Counsel for the Defendant filed a Response. As noted in my Reply to their Response 'no evidence' was presented by their counsel that would defeat the motion. The Response raised only one objection, relevant to the issue of liability under the statute, to the entry of the summary judgment. Defendant's argument is that the definition of the phrase 'Actual Innocence' does not apply to the action that is before this court. Defendant produced no evidence of 'Actual Guilt' the absence of 'Actual Innocence' would imply. However; in response to the objection of the Defendant the Judge requested the parties submit a brief on the definition of the phrase 'Actual Innocence' within 10 days.

## **Prior State Judicial Opinions on Standard of Review of Statutory Construction**

With the Mandate of our Constitution, with the philosophy of the law that forms the foundation for our Constitution in mind, I present the following opinions of other judicial Officers, Judges in and for the Courts in this State, on the interpretation of legislative intent:

Statutory construction is a question of law. See *Johnson v. City of Fort Worth*, 774 S.W.2d 653, 656 (Tex. 1989). Our objective when we construe a statute is to determine and give effect to the legislature's intent. See *Liberty Mut. Ins. Co. v. Garrison Contractors, Inc.*, 966 S.W.2d 482, 484 (Tex. 1998); *Union Bankers Ins. Co. v. Shelton*, 889 S.W.2d 278, 280 (Tex. 1994). The resolution of an issue of statutory construction must begin with an analysis of the statute. See *Cail v. Service Motors, Inc.*, 660 S.W.2d 814, 815 (Tex. 1983). If the disputed statute is clear and unambiguous, extrinsic aids and rules of construction are inappropriate and the statute should be given its common meaning. See *St. Luke's Episcopal Hosp. v. Agbor*, 952 S.W.2d 503, 505 (Tex. 1997). The legislature's intent is determined from the plain and common meaning of the words used. See *id.* (citing *Monsanto Co. v. Cornerstones Mun. Util. Dist.*, 865 S.W.2d 937, 939 (Tex. 1993)).

When the legislature has failed to define a specific word in a statute, courts apply its ordinary meaning. See *Monsanto Co.*, 865 S.W.2d at 939. **Courts may not by implication enlarge the meaning of any word in the statute beyond its ordinary meaning.** See *Sorokolit v. Rhodes*, 889 S.W.2d 239, 241 (Tex. 1994); *Sexton v. Mount Olivet Cemetery Ass'n*, 720 S.W.2d 129, 138 (Tex. App.--Austin 1986, writ ref'd n.r.e.). Likewise, a court is not free to formulate forced or strained definitions for statutory terms. See *Howell v. Mauzy*, 899 S.W.2d 690, 704 (Tex. App.--Austin 1994, writ denied).

### **Common, Ordinary, Meaning of the word(s) 'Actual Innocence'**

A definition of the compound phrase does not exist in the dictionaries available.

Taking the words individually the common, ordinary, meaning (definition) of 'innocence' is found as:

- a state or condition of being innocent of a specific crime or offense
- the quality of innocent naivete
- the state of being free from sin or moral wrong; lacking a knowledge of evil

It is a well-established Maxim of Law, under the Laws of this State and Nation, the absence of innocence requires a violation of penal laws as opposed to a violation of a subjective moral standards of the government or that of a collection of a jury to whom the powers of government may be delegated for a determination of only the material facts relating to the elements of a crime. Therefore the definitions referring to 'naivete' or being

'free for a moral wrong', as opposed to a wrong cognizable in law as an 'actual' wrong, must be eliminated.

The common, ordinary meaning (definition) of the word "Actual" has been found as:

- being or reflecting the essential or genuine character of something
- presently existing in fact and not merely potential or possible
- being or existing at the present moment
- taking place in reality; not pretended or imitated
- of the nature of fact; having actual existence
- **Based on fact**
- Existing and not merely potential or possible. See Synonyms at real.

Common Meaning definitions of *real*)

- (of property) fixed or immovable • possible to be treated **as fact** • not synthetic or spurious; of real or natural origin • being or occurring **in fact** or actuality; having verified existence; not illusory • founded on practical matters • not to be taken lightly
- having substance or capable of being treated **as fact**; not imaginary • coinciding with reality • being or reflecting the essential or genuine character of something

The history of the founding of both this State and Nation reveal Innocence to be considered as "fixed or immovable", as the property of the individual, inherent in the Human Person, as a state of natural origin, as **a fact of nature**, a self-evident truth for purposes of the application of human law. (See US Declaration of Independence and historical documents relating to the Texas succession from Mexico)

### **Presumption of Guilt?**

No common meaning, definition, of "Actual Innocence" exists. We may assume, for purpose of argument, the Legislators intended to replace the Maxim of Law of a Presumption of Innocence with a Presumption of Guilt. This would imply the opposite, 'Actual Guilt'. But this, too, does not exist in the dictionaries of common meaning. However, a definition for the compound phrase of "Actual sin" was found and is defined as: "(Theological.), that kind of sin which is done by ourselves in contradistinction to "original sin."<sup>1</sup> Therefore we may assume 'Actual Guilt', the opposite of 'Actual Innocence' would require a 'sin' to be committed. Therefore we can eliminate the possibility of "original sin" as the intent of the legislators to preclude Edmund B. Heimlich from compensation for Wrongful Imprisonment.

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<sup>1</sup> <http://dictionary.reference.com>

As the definition of "actual guilt" as "actual sin" is theological, so too is the definition of what constitutes 'innocence' is theological and not a proper topic of extensive elaboration in the field of law. In Law, as administered by a government of people rather than by an unseen, non-mortal, superior spiritual entity, 'sin' is defined by a penal code that sets forth the elements that must be present before an 'actual sin' can be considered to have been committed. The definition of 'actual' is, from it's common meaning, to be '**of fact**'. This is consistent with the opinions from the United States Supreme Court that, in summary, make **the definition of 'actual innocence' synonymous with 'factual innocence'**.

What the counsel for the defendant appears to want is for a 'presumption of guilt' to prevail. Even if we assume from the common meaning of the words the intent of the legislature was to presume guilt, before entitlement to compensation for Wrongful Imprisonment is established, neither the defendant, or their counsel, can meet their burden of establishing guilt by placing a presumption of guilt in place of a presumption of innocence. **No** 'actual sin' was committed. This is now **a Fact** that has been established in both the public record and by two prior opinions of jurists in and for the Defendants in this State.

### **Burden is on the Defendant**

The purpose of a 'No Evidence Motion for Summary Judgment is to force the defendant to provide evidence that would defeat the plaintiff's assertion of strict-liability. Defendant has ***not*** produced any evidence that would establish guilt. The Facts, well established in the public record, and in this case, reveal the Defendant ***cannot*** produce evidence of guilt. It simply does not exist as a matter of Fact, a truth that, as much as counsel for the defendant may wish to avoid, is a reality he must accept.

Even with the presumption of guilt; the Law of the Case, established by the reversal and acquittal, reveals there was no guilt. The elements of a crime were not established and cannot not be established absent the elimination of the prohibition against impairing the obligation of contracts and, as well, abrogating all authority of the legislature to regulate the business of real estate. Plaintiff's Actual Innocence was established by a contract, private law, between him and the alleged complainant. Plaintiff's Actual Innocence was further established by the statutes regulating the

relationship between plaintiff, as a Real Estate Broker licensed by the State, and the alleged complainant, a Real Estate Agent licensed by the State. It is impossible for the Defendant to prove guilt absent the imposition of ex post facto law licensing the law enforcement officials of the State to create ex post facto laws, on a sue sponte basis, with selective enforcement, whereby all charged with the duty of law enforcement become Judge, Jury, and Executioner based on their personal moral judgment without regard, responsibility, or accountability to the Constitution, Statutes, or any other earthly authority. Even if this is what the Attorney General would like, and even if the Legislature were to grant him his wish, it would be a Constitutional violation and void ab initio. The Texas Constitution provides some Rights are 'exempt from the powers of government; forever to remain inviolate (Tex.Const.Art.1, Section 29).

The hearing was called to determine whether the people of the State of Texas, by and through their Legislature, intended the treasury to be opened to me, the Plaintiff/Petitioner, Edmund B. Heimlich, for payment of remedy mandated by law for the infliction of the injury of Wrongful Imprisonment, as provided by the Constitution. The determination of the issue of liability has now been reduced to a single question. That is; the definition of Actual Innocence and/or the Legislative intent of the use of this compound phrase in the statute.

More accurately; **The question to be answered is whether or not, the language utilized in the opinion of the panel of the Fourteenth Court of Appeals, in prior judicial proceedings of this case, that of "legal insufficiency", where the elements of a crime were lacking and no crime had been committed by the Plaintiff in this Action, was, in substance, synonymous with language of the Legislature, that of "actual innocence", in this case that is before the court.**

**The question has twice before been answered**

This question has been answered. The answer, if not obvious and implicit from the entire text of the opinion, including the footnotes, from the Fourteenth Court of Appeals, reversing the unlawful conviction, is clearly stated in Opinion and Mandate of Third Court of Appeals directed to the Judge of this proceeding in this Court, leaving the Judge without discretion. A true and correct copy of the Opinion of the Fourteenth Court of Appeals, including the footnotes, is attached as Exhibit A with attention directed

specifically to footnote number 7, referring to the absurdity of the State's (actually a public servant and a few sycophants) logic, and the relevant statement in footnote number 8: "**In order for Heimlich to commit a theft, however, Heimlich had to actually commit the crime. "**

The relevant language of the opinion of the Third Court of Appeals, on which the Mandate rests, is:

On appeal, Heimlich argues that the district court erred by granting summary judgment against his claims because the court of appeals reversed his conviction on grounds that he did not commit a crime; **he is thereby essentially claiming that he has "been granted relief on the basis of actual innocence of the crime."** Receiving relief based on actual innocence is an additional basis for compensation under the amended statute. *See* Tex. Civ. Prac. & Rem. Code Ann. § 103.001(a)(2)(B) (West Supp. 2003). The amended statute applies to this case because the Legislature specified that the amendments apply to all actions "pending on that effective date and in which the trial, or any new trial or retrial following motion, appeal, or otherwise begins on or after that effective date."

Thus, despite surplusage in Heimlich's pleadings to the contrary, the amended statute applies because trial in this case had not begun on the effective date of the amendment. *See id.* **Moreover, Heimlich's pleadings are sufficient to state a claim under the amended statute.** Accordingly, we conclude that the district court erred by granting summary judgment against his claim for recovery under section 103.001.

**Authorities making reference to the legal definition of 'Actual Innocence'**

The compound phrase "actual innocence" is not found in common language with ordinary meaning. It is a creation of the legal establishment and a new addition to legal lexicon. Reference to "actual innocence" has been made in opinions from the United States Supreme Court.

The phrase has been used as a last ditch, collateral attack, on convictions, primarily death penalty cases, where all other procedures for relief from a conviction, or penalty, have been exhausted. The first use of the phrase was found in a 1992 opinion where the term was equated with, and apparently has since become used in place of, the phrase "**miscarriage of justice**", or to mean "**factual innocence**". A range of definitions in the legal context is provided with the strictest being establishing actual innocence by showing the person convicted did not meet the elements required for showing a crime was committed.

This case happened to come from the United States Fifth Circuit, the judicial district for our Federal Government, encompassing this State. In the case **Sawyer v. Whitley (91-6382), 505 U.S. 333 (1992)**. The Opinion of the Court delivered by Chief Justice Rhenquist said;

"In a trio of 1986 decisions, we elaborated on the miscarriage of justice, or "actual innocence," exception

...the miscarriage of justice exception would allow successive claims to be heard if the petitioner "establish[es] that under the probative evidence he has a colorable claim of factual innocence." *Kuhlmann*, 477 U. S., at 454.

Here it appears that "actual innocence" is equated with "factual innocence" which would apply to the statute and case presently before this Judge. The opinion goes on to clarify;

The present case requires us to further amplify the meaning of "actual innocence" in the setting of capital punishment. **A prototypical example of "actual innocence" in a colloquial sense is the case where the State has convicted the wrong person of the crime.** (emphasis added)

This is the definition that most appropriately fits the case before this Court and as intended by the Legislature of the State in passage of the Amended Statute. The record of the case that led to my wrongful imprisonment is a case where the person, be they

individuals or entities, guilty of the crime was the person making the accusation and/or the person who encourage the accusation. The evidence of these proceedings suggest the counsel acting as representative of the defendant is, in actuality, acting in defense of the individuals guilty of the crime for which I, Edmund B. Heimlich was accused, in another collusive attempt to protect the ones "actually guilty" from exposure without regard to the mandates of counsel's client, the people, their Constitution, and the Law.

The opinion goes on to state:

Considering Louisiana law as an example, then, there are three possible ways in which "actual innocence" might be defined. **The strictest definition would be to limit any showing to the elements of the crime** which the State has made a capital offense. The showing would have to negate an essential element of that offense.

As is clear from the opinion of the Fourteenth Court of Appeals I, Edmund B. Heimlich, in the case at issue before the judge of this court, fit the "strictest definition" of the definition provided by the Supreme Court for the United States, as evidenced by the majority opinion on page four, under title "II Discussion" where reference is made to the elements required. Exhibit A.

*Carrier* requires a petitioner to show that he is "actually innocent." As used in *Carrier*, actual innocence is closely related to the definition set forth by this Court in *Sawyer*. To satisfy the *Carrier* gateway standard, a petitioner must show that it is more likely than not that no reasonable juror would have found petitioner guilty beyond a reasonable doubt. **Schlup v. Delo (93-7901), 513 U.S. 298 (1995)**. Actual innocence, of course, does not require innocence in the broad sense of having led an entirely blameless life.

### **Support in the Record**

The answer to the question of the definition of 'actual innocence' where there is an absence of any possibility of 'actual guilt' while presuming guilt, is also clarified in my post-appeal Amended Original Petition, my Motion for No Evidence Summary Judgment, my Reply to the Response of the Office of the Attorney General to my No Evidence Summary Judgment, as well as the record generally, including my Affidavit.

### **Limitations on Authority of Legislature as evidence of Legislator's Intent**

It is a well-established maxim of law in this State, as well as this Nation, that government exists at the pleasure of the people for the sole purpose of serving the people. The government does this by, both collectively and by the individuals employed in the government, giving honor to the Constitution that frames and limits the authority of government. In Texas the Legislature is limited by Article 1, titled the Bill of Rights, and by Section 29 of these Rights, that exempts from infringement, abrogation, or abridgment, certain Rights, Privileges and Immunities from the power of the Legislature. Of particular relevance to this case is Section 20 regarding Outlawry. Supposing it was the intent of the legislature to outlaw me, the plaintiff, Edmund B. Heimlich, by utilizing the language "Actual Innocence" to deny me the Protection of the Law that exists by and through my Constitutional Right to Remedy, it would not be within the province of their jurisdiction, their authority, to do so. We must, therefore, assume the intent of the Legislature is that intent which would be in compliance with the Constitution and its limits.

Also of relevance to this case is Section 16 of the Bill of Rights prohibiting Bills of Attainder; Ex Post Facto or Retroactive Laws; Impairing the Obligations of Contracts. Pursuant to these absolute Rights it was impossible for the elements of a crime, a violation of the penal laws of this State, to exist. It is disheartening that the jurists who rendered the opinion and judgment reversing the opinion did not give recognition to these, deemed by the writers of the Federalist Papers as the most essential guarantees of liberty. Those who know history know these were the only Rights secured by the Original Constitution of the United States, they are not found in the Bill of Rights but are, due to their importance, enumerated in the First Article of the Constitution for the United States. The importance of these as necessary to secure the Protection of the Law from arbitrary actions of government was certainly as important to the founders of this State and are now recognized Internationally as the foundational basics of a civilized Nation with a government under the Rule of Law.

### **The Epistemology of Law in this Land As the Starting Point for the Standard of Review**

A Human Person, residing in this State, possessing all Rights of Citizenship, as a Texan, as well as all Rights of Birth as a Citizen of the United States, has, at all times, as an inherent and/or unalienable Right, Actual Innocence. This is mandated by the supreme Law of the Land and is, or should be, self-evident to any who have an understanding of the Philosophy of the Law on which this State and this Nation was founded. Innocence, or the compounding of the word to include the pretext 'actual', is to be presumed in a State and/or Nation where the written Law, beginning with the Constitution, is the sovereign, the King, with the Divine Rights of God and Man. Divine Rights have, in previous times or other places, been believed to be embodied in a human person in possession of a title. Under the Philosophy of Law that forms the foundation for Law in this Land this supreme, Divine Right, is placed into the body of a written document that limits the power of titles to the duties delegated and demands 'equal standing' of all human persons, regardless of socioeconomic status, or title, under the Constitution as supreme, to any title and relegates all artificial entities to their proper status as fictions of law without any Rights of a Human Person, possessing only limited duties with, corresponding, obligations and responsibilities.

### **Texas is not a Theocracy**

Well established in the founding of the supreme Law of the Land for United States is Freedom of Religion as the basis for the separation of Church Power from State Power. This is believed to be due to an enlightened understanding of the New Testament of the Bible by the founders who were, mostly, Christians who belonged to Churches that rejected the power of the denomination that dominated Europe at the time. The separation of Church power from State power was more clearly revealed in the founding of this State, Texas, which began as a Nation that broke free from a government where the Church and State were intertwined. References to the Priests of the dominant Church are found in the founding documents are part of the cause for the separation.

The Attorney designated to act as counsel for the defendant may desire the opportunity to compile a collection of twelve people who are of the religious philosophy that all human persons are, at all times, burdened with 'original sin', thus creating 'actual innocence' of the human person as an impossibility in nature. The philosophy of our Law, in this State, mandates that all human persons be presumed to possess Actual Innocence,

at all times, regardless of the dominant religious philosophy of any collection of peoples in the State. In a State, under the Rule of Law, all individual human persons are, at all times, individual sovereigns with a full panoply of Rights equal to that of a King, or any other of any title. Rights are inherent in the individual. Titles designate Duties and Responsibilities. This is the doctrine of our law has now been incorporated into the supreme Law of the Land, by international treaty, in International Law operative upon this Land, by which each Human Person possesses, at all times, an inherent Right to Human Dignity while all of Title, regardless of the nature of the title, are subject to the Rule of Law, for crimes against Humanity, if they should disregard the dignity of any Individual Human Person.

It was well understood by the founders of this State and this Nation, that humans granted the sacred trust and duties of a Title, have a tendency to overstep the boundaries of their authority and assume they have been given divine rights to rule over their fellow humans. It may be that in our society the populace has become complacent, taking their liberty for granted due to it's long standing, with the result this tendency is less recognized. People have a tendency to place, in their mind, a 'white hat' upon the person in possession of a title and a 'black hat' on the sovereign individual human person acting as their own self, without benefit of title, in their own court. The purpose, in this State, for a Judge in this Court, is to provide the leveling effect of the written law to protect the sovereign individual from this tendency towards bias and prejudice to insure that all, in the court, are equal under the law, so that impartial justice may prevail.

Counsel acting as the defendant, proud of his title, and eager to secure a self-congratulatory<sup>2</sup> win, would like an opportunity to pervert the Due Process of Law and practice his litigation skills at public expense, to deprive me of the Equal Protection of the Law so that he may thump his chest with a feeling of superiority. The Judge of this Court is, under the supreme Law of the Land, and their oath of duty to this Law, without discretion to grant him his wish.

The Constitution mandates that Inherent Innocence may not be eliminated by adding a subjective conditional of "actual" that is then subjected to the religious bias of the philosophy of counsel for the defendant or a collection of twelve on a jury panel. As

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<sup>2</sup> congratulation of oneself; *especially* : a complacent acknowledgment of one's own superiority

explained in my Reply to the Response of the Defendant, and further elaborated upon in this brief, this was *NOT* the intent of the Legislators of this Great State. Even if considered as their intent it was beyond the scope of the authority delegated to the Legislative branch by our Constitution.

**WHEREFORE, PREMISES CONSIDERED**, I, the Plaintiff / Petitioner, Edmund B. Heimlich, again respectfully request the Judge in this Court perform their duties as an Officer of the Court and enter Judgment on the issue of liability, for Edmund B. Heimlich, on the claim for Compensation for Wrongful Imprisonment, in this Action, under cause No. GN1-00142, against the State of Texas, with request for injunction against the Counsel for the Defendant for his repeated attempts to obstruct, delay, or close the court, to deprive me of justice.

I apologize for the surplusage and hope Judge Suzanne Covington will understand that I am, due to my prior experience resulting in my Wrongful Imprisonment, and due to the collusion I previously witnessed between individuals employed in the Office of the District Attorney of Harris County, and the individual employed as Judge, suspicious of both the competence, and integrity, of our public servants. Hopefully, this will be cured by a showing of honor to the Constitution and Laws of this State, by an independent judiciary, in the District of Travis County, in this Court.

I understand the method currently utilized in the administration of my District Court, in the judicial district providing the venue for this case, may not have allowed Judge Suzanne Covington the time and opportunity to review the record. I hope that, with this brief, she will make time to review what has already been submitted to the record. I respectfully request the Judge also take notice of my Motion for Leave and an Expedited Ruling submitted into the record on March 17, 2003.

Respectfully submitted,

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Edmund Heimlich  
6410 Rancho Blanco Court  
Houston, TX 77083  
Telephone: 281-561-7211  
Facsimile: 281-561-8122  
email: [ed@informed.org](mailto:ed@informed.org)

**Certificate of Service**

I hereby certify that a true and correct copy of the above and foregoing was served upon the state of Texas by placing same in the United States mail addressed to the address of record for the Attorney General, Greg Abbot, and his designated Attorney-in-Charge, Seth Byron Dennis, on this the 23<sup>th</sup> day of June, 2003 and by facsimile to his attention at their fax number of 512-495-9139. The service of this pleading has been delivered with Notice of Hearing Scheduled for July 17<sup>th</sup>, 2003, at 2 P.M. for entry of this judgment.

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Edmund B. Heimlich