

E. JUSTIFICATION FOR CLEMENCY CONSIDERATION

- (1) State the reasons and circumstances for requesting a full pardon.

This is an application for a posthumous pardon pursuant to the Texas Board of Pardons and Paroles Rule § 143.13 by the Harris County Public Defender's Office on behalf of George Perry Floyd, now deceased, and on behalf of his surviving family

On February 5, 2004, George Floyd was arrested at 3300 Winbern Street in Harris County, Texas and was charged with Delivery of a Controlled Substance. The arresting officer, Gerald Goines, alleged that Floyd was in possession of .03 grams of crack cocaine at the time of his arrest, and that Floyd had provided the drugs to an unnamed "second suspect" who had agreed to sell the drugs to the undercover Goines. The "second suspect" was not arrested, Goines noted in his offense report, "in a [sic] attempt to further the narcotic trafficking [sic] in this area." Ostensibly, Goines meant the second suspect cooperated with police and was going to be used as a confidential informant to prevent further trafficking, but his phrasing on the offense report was inartful.

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Complete this page before attaching any additional page(s). Place any attachments immediately behind this page.

- (2) What have you done since your conviction(s) to show that you deserve full pardon and restoration of civil rights consideration, including rehabilitative efforts that you have made?

In the years after his release from TDCJ in 2013, George Floyd worked to change his life. He started mentoring other young men through faith-based programs, including Resurrection Houston. He delivered meals to elderly people and volunteered for "Angel By Nature," a local charity that aims to help underserved youth. He moved to Minneapolis in 2014, completed a 90-day drug rehabilitation program, looked for work. As Floyd worked toward trying to start his own trucking company, he was known for his kindness and heart. He loved his family, played sports, and was known as a friendly security guard at a local nightclub until he was laid off due to the pandemic. He was a dad, a brother, and a son.

That said, this pardon is not sought because of the things that George Floyd did or did not do. This pardon is not sought based on merit or worthiness. He was a good man who is missed dearly by friends and family, but this pardon is being sought because it is just and right to clear a conviction that is not supported by evidence with the new information that has come to light since Floyd's conviction- and this is the only legal vehicle available to do so.

Complete this page before attaching any additional page(s). Place any attachments immediately behind this page.

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Pursuant to a plea agreement, Floyd pleaded guilty and was sentenced to ten (10) months of confinement in a Texas State Jail facility.¹

Taken on its own, this arrest does not seem extraordinary. George Floyd had prior criminal offenses, including drug offenses, and Goines was a seasoned Houston Police Department Officer on the Drug Task Force with decades of experience. In 2004, as Floyd's case wound through the Harris County criminal justice system, there was no reason for anyone to question the veracity of the allegation, especially after Floyd pleaded guilty.

More than fifteen years later, both of these men have come into the spotlight on opposite sides of the same issue: the vast unfairness of the United States' criminal justice system, and specifically, the grotesque abuses of power by police officers.

In early 2019, Officer Goines executed a "no-knock" raid on a house at 7815 Harding Street in Houston, Harris County, Texas that resulted in the death of the homeowners and in injury to five police officers. Investigation later revealed that Goines had lied on his application for a search warrant, and that he had made up a confidential informant who implicated the homeowners in heroin sales.²

Suddenly, Goines' actions in other cases, spanning more than three decades, came under scrutiny.

The Harris County District Attorney's Office has since agreed to post-conviction relief for numerous defendants arrested by Goines. District Attorney Kimbra Ogg released statements touting her office's review of cases where Goines was a material witness, stating, "We will continue to work to clear people convicted solely on the word of a police officer who we can no longer trust," Ogg said. "We are committed to making sure the criminal justice is fair and just for everyone."³

Two of those defendants, Otis and Steven Mallet, are brothers who were set up by Goines. Both were recently declared actually innocent by the Texas Court of Criminal Appeals.⁴

¹ The Houston Police Department Offense Report and Certified court documents for Cause No. 0976589 are appended after the appropriate Criminal History Form, as required by this application.

² See: Attachment 4, *Complaint in Harris County Cause No. 1643589, State of Texas v. Gerald Goines*.

³ See: Attachment 2, *District Attorney Press Release, May 21, 2020*.

⁴ See: Attachments 7&8- *Mallett* opinions.

“A police officer's deceit, perjury, and continued wrongdoing lie at the heart of this case. This Court's precedent and the complete lack of evidence here demand actual innocence relief.”

Ex parte Mallet, No. WR-90,986-01, 2021 Tex. Crim. App., at *10-11 (Crim. App. Apr. 14, 2021)(Richardson, B., Concurring).

Gerald Goines manufactured the existence of confidential informants to bolster his cases against innocent defendants, consistent with the unnamed, unidentified “second suspect” he mentions in his offense report in his interaction with George Floyd.

Goines is currently facing multiple felony charges in Harris County related to his falsification of arrest warrants and offense reports, including four counts of Tampering with a Government Document, one count of Theft from a Public Servant, and two counts of Murder.⁵ He also faces seven related charges in federal court, including two for civil rights violations, two charges that he destroyed or falsified records, and three charges of tampering with a witness, victim, or confidential informant.⁶

On March 08, 2019, the Harris County District Attorney’s Office sent a letter addressed to George Floyd to an address he had previously lived at in Houston, attempting to notify Floyd that Goines had been involved in his case, and that Goines was under criminal investigation.⁷ The address was Floyd’s former family home, where his mother, Larcenia Floyd, had died in 2018.

It is our contention that Goines did the same thing in George Floyd’s case as he did in the cases of so many others: he made up the existence of a confidential informant who provided crucial evidence to underpin the arrest and no one bothered to question the word of a veteran cop against that of a previously-convicted Black man.

George Floyd’s other charges bear out that he was no stranger to being targeted by police officers. A 2001 arrest for failing to identify himself correctly to a police officer began with police asking him to talk to them because he did not look like he was going anywhere in particular and they “suspected

⁵ See: Attachment 5- *Gerald Goines’ Pending Indictments in Harris County District Court*

⁶ See: Attachment 6- *Gerald Goines’ Pending Indictments in Federal District Court*

⁷ See: Attachment 1- *Letter from District Attorney’s Office to George Floyd, March 08, 2019*

him of trespassing” in an apartment complex, though the offense report does not indicate that anyone complained of a trespasser.⁸

Similarly, Floyd’s 2005 arrest for possession of cocaine came about after officers utilized a common procedure that takes advantage of Texas’ traffic laws, which allow officers to elect to either ticket or arrest drivers for most traffic offenses. Floyd was arrested for driving without valid car insurance or license. Because he was arrested rather than simply ticketed, the car he was driving had to be impounded. Officers were able to search his vehicle without articulating any probable cause for doing so, under the guise of listing contents of the vehicle prior to having it towed. It was during this “inventory” search that cocaine was discovered in the middle console of the car.⁹

This pardon application does not seek redress for those cases. As much as one might feel that George Floyd was treated unfairly in those cases, this application only concerns the case where we know for a fact that he was arrested by an officer who routinely fabricated evidence and where there were no other witnesses to the officer’s conduct.

In the instant case, Floyd was faced with the reality of what the falsified evidence against him meant—that he had no ability to contest his guilt. If Floyd had gone to trial, he would have faced punishment enhancements that would have branded him a habitual offender and could have sent him to prison for a minimum of twenty-five years. Like many people forced through the twisted criminal justice system in the United States, Floyd confessed to save his life. In exchange for his plea of guilty, those enhancements were not pursued. Floyd served his ten months in State Jail and was released.

Of course, no one knew then that on May 25, 2020, George Floyd would be accused of passing a counterfeit \$20 bill at a grocery store in Minneapolis, and would die under the boot of another murderous police officer, Derek Chauvin. No one knew that Floyd would be forced to the ground and gasping for breath for nine long minutes and twenty-nine seconds, calling for his dead mother as onlookers filmed and shouted for the officer to let him go. In Minneapolis, there was no judge, no prosecutor, no court-appointed lawyer to prime the way for a plea—no formal courtroom dressing to blunt the inhumanity of our violent, racist legal system. On May 25, 2020, George Floyd did not have the option to falsely confess to save his life.

⁸ See: Criminal History and Appended documents for Harris County Cause No. 1075778

⁹ See: Criminal History and Appended Documents for Harris County Cause No. 1050473

Now, in light of what we now know Gerald Goines has done, and in light of Floyd's death, this application seeks some small measure of justice. Because Floyd is dead, the usual remedy of a writ of habeas corpus cannot be pursued. Habeas proceedings require proof of some type of restraint of liberty by the state from which the applicant seeks to be released.¹⁰ The dead have no liberty interests.

Though pardons are, of course, rare and discretionary, and posthumous pardons all the more so, the instant case is one where truly, a pardon is merited. A pardon would not give back the ten months George Floyd spent in State Jail, away from his children and his mom. It wouldn't erase the memory, personal or institutional, of this thing that happened to him, or the things that would happen to him later. In its own small way, though, this pardon would correct the record. It would show that the State of Texas is interested in fundamental fairness, in admitting its mistakes, and in working to increase the accountability for police officers who break our trust and their oaths, and harm our people rather than serve them.

The deaths of those who are killed at the hands (or boots) of an out-of-control legal system are never justified by the changes that come to pass afterward. But from heat we get light, and change does come. We honor the memory of those who have suffered by acknowledging the injustice that happened to them and doing what we can, however small, to stand against it.

Since there is no other adequate remedy at law or equity, we pray for the extraordinary relief of a posthumous pardon.

¹⁰ See: Tex. Code Crim. Pro. Art. 11.01.

F. CERTIFICATION BY APPLICANT

Please read the following statements carefully and indicate your understanding and acceptance by signing in the space provided. This application must be signed.

I hereby give my permission to the Board of Pardons and Paroles or its designated agent to make any inquiry and receive any information of record that it may deem proper in the investigation of this application for clemency; and

I understand that compliance with these requirements is sufficient for the Board's consideration of this application, but compliance does not necessarily mean that favorable action will result.

I hereby swear upon my oath that I am the subject herein named and the facts contained in this application are true and correct.

Allison Mathis

Applicant's Signature (Full Name)

04/21/2021

Date