

**CAUSE NO. D-1-DC-04-904165**

<b>STATE OF TEXAS</b>	§	<b>IN THE 299<sup>th</sup> JUDICIAL</b>
	§	
<b>v.</b>	§	<b>DISTRICT COURT OF</b>
	§	
<b>ROSA ESTELA</b>	§	<b>TRAVIS COUNTY, TEXAS</b>
<b>OLVERA JIMENEZ</b>	§	

**STATE’S MOTION TO DISMISS INDICTMENT**

**NOW COMES** the State of Texas, by and through the Travis County District Attorney, and moves for dismissal of the indictment in this case and would show the following:

I.

History of Case

Rosa Estela Olvera Jimenez was convicted on September 1, 2005, of one count of murder and one count of injury to a child and sentenced to 99 years imprisonment. Ms. Olvera Jimenez maintained her innocence at trial, and continued to fight her conviction through an appeal, *Jimenez v. State*, 240 S.W.3d 384 (Tex. App. 2007), petition for a writ of certiorari in the U.S. Supreme Court, *Jimenez v. Texas*, 555 U.S. 892 (2008), a first writ of habeas corpus, *Ex parte Jimenez*, 364 S.W.3d 866, 882 (Tex. Crim. App. 2012), and second and third applications.

Ms. Jimenez’s final Application for Writ of Habeas Corpus was filed on January 4, 2021, and after an evidentiary hearing this Court recommended her Writ of Habeas Corpus be granted. On May 31, 2023, the Texas Court of Criminal Appeals granted relief and remanded this case back to the trial court. Mandate was issued by the Court of Criminal Appeals on June 28, 2023.

## II.

### Re-Investigation of Case

On January 30, 2002, Applicant was babysitting a 21-month-old toddler named B.G. when a wad of paper towels lodged in B.G.'s throat and obstructed his airway. He suffered a severe brain injury due to oxygen deprivation and never regained consciousness. B.G. passed away three months later in hospice. Based on what are now known to be false medical assumptions, Ms. Jimenez faced trial in 2005 for felony murder and injury to a child. The State's case rested on testimony that it would have been physically impossible for B.G. to choke accidentally on the wad of paper towels and so the paper towels must have been intentionally forced into his throat. Based on the medical testimony presented at trial, Ms. Jimenez was convicted of felony murder and injury to a child.

The Travis County District Attorney's Office through its Trial Division, Special Victims Unit, and Conviction Integrity Unit conducted a thorough review of the evidence including significantly reports and testimony of numerous pediatric otolaryngologists who specialize in the management of children's airways who unanimously concluded that B.G.'s choking was the result of a tragic accident. Recognizing the expertise of the pediatric otolaryngologists in the blocked airways of children and the biological mechanisms that play in pediatric airway blockage situations, the State's pathologist revised her trial testimony on behalf of the State where she stated that B.G.'s death could not have been accidental. At trial, and to this day, the State has found no evidence of motive, prior mistreatment, substance abuse, or any other evidence to support the theory that Ms. Jimenez perpetrated an unprecedented attack on a young boy in her care.

For the aforementioned reasons, based on the unanimous view of the most relevant medical experts and the thorough review of the Travis County District Attorney's Office initiated by both the Conviction Integrity Unit and an experienced team of other prosecutors newly available evidence, the State has concluded that there is substantial and credible evidence that Ms. Jimenez did not commit the charged offense of murder and injury to a child and is therefore actually innocent.

### III.

#### Conclusion

Based on the foregoing, the State moves for a dismissal of this indictment in cause number D-1-DC-04-904165 on the basis that no credible evidence exists that inculpates Rosa Estela Olvera Jimenez. Further, the State moves to dismiss the indictment in this cause on the basis that the State's attorney believes that Rosa Estela Olvera Jimenez is actually innocent of the crimes for which she was convicted and sentenced.

Respectfully submitted,

JOSÉ P. GARZA  
District Attorney  
Travis County, Texas

*Nancy Nicolas*

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STATE OF TEXAS

vs.

ROSA ESTELA  
OLVERA JIMENEZ

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§

IN THE 299<sup>th</sup> JUDICIAL  
DISTRICT COURT OF  
TRAVIS COUNTY, TEXAS

**ORDER ON STATE’S MOTION TO DISMISS INDICTMENT**

Having duly considered the *State’s Motion to Dismiss Indictment* in the instant cause, in which the State asserts that it has determined no credible evidence exists that inculcates defendant Rosa Estela Olvera Jimenez and its belief that Rosa Estela Olvera Jimenez is actually innocent of the crime for which she was convicted and sentenced in this cause, the Court hereby **GRANTS** the State’s Motion for the reasons states therein and **ORDERS** the above numbered and styled cause dismissed.

Signed this \_\_\_\_\_ day of August, 2023.

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Hon. Karen Sage  
299<sup>th</sup> Judicial District Court

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Associated Case Party: STATE OF TEXAS

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