

Appellate Cause Number 12-19-00028-CR  
Ex Parte: Martin Reynolds, Jr.

**Background**

In late 2017, a Smith County grand jury indicted the appellant, Martin Reynolds, Jr., for murder in the November 2017 shooting death of Andrew Carpenter. The police took Reynolds into custody, and a judge set his bond at \$750,000.00. According to Reynolds's brief, he is unable to post bail and remains in jail awaiting trial.

In August 2018, Reynolds filed an application for writ of habeas corpus in the trial court claiming that he is being held unconstitutionally because the Texas self-defense statutes contain an unconstitutional exception that applies to his case. Under that exception, a person is not justified in using force to defend himself if he sought an explanation from or discussion with the other person concerning their differences while carrying a weapon in violation of Texas Penal Code Section 46.02. Section 46.02 prohibits carrying a handgun on premises not owned by the person or under his control and not inside or directly en route to a motor vehicle owned by him or under his control.

In his writ application, Reynolds admitted that he shot and killed Carpenter and was in violation of Section 46.02 at the time. However, he argued that he killed Carpenter in self-defense and that the statutes disallowing self-defense when in violation of Section 46.02 are unconstitutional both facially and as applied to his case. After a hearing, the trial court denied the application.

**Legal Issues**

On appeal, Reynolds argues that the trial court erred by denying his writ application. He contends that Texas Penal Code Sections 9.31(b)(5)(a) and 9.32(a)(1)—the statutes that together disallow the use of deadly force in self-defense when one is in violation of Section 46.02 and sought to discuss his differences with the victim—are facially unconstitutional under the Texas and United States Constitutions. Furthermore, even though “as applied” constitutional challenges are not cognizable before trial unless the rights underlying the claim would be effectively undermined if not vindicated pretrial, Reynolds argues that the statutes are unconstitutional as applied to him. He contends this issue is cognizable now because a trial would be a waste of resources if the statutes are subsequently held unconstitutional and other similarly situated people might meanwhile be wrongfully convicted because of the statutes. Reynolds argues that the statutes offend the Second Amendment right to bear arms because the right to self-defense is fundamental. He further argues that the statutes offend the First Amendment by restricting the right to free speech.

The State responds that the trial court correctly denied Reynolds's application because he has not shown that the statutes are unconstitutional in all circumstances, his as-applied challenge is not cognizable on pretrial habeas, he has not shown that the statutes apply in his case, a holding that the statutes are unconstitutional would not result in his immediate release, and the statutes impose a constitutional limitation on the right to self-defense.