



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-92,773-01

EX PARTE SHAWN PINSON, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. B-44,548 -A IN THE 161ST DISTRICT COURT
FROM ECTOR COUNTY**

Per curiam. NEWELL, J., dissented.

ORDER

Applicant was convicted of murder and sentenced to seventy years' imprisonment. The Eleventh Court of Appeals affirmed his conviction. *Pinson v. State*, No. 11-17-00003-CR (Tex. App.—Eastland Dec. 21, 2018, pet. ref'd) (not designated for publication). Applicant filed this application for a writ of habeas corpus in the county of conviction, and the district clerk forwarded it to this Court. *See* TEX. CODE CRIM. PROC. art. 11.07.

Applicant contends that trial counsel was ineffective because he did not object to (1) the court's charge that failed to limit the definitions of the culpable mental states to the result of Applicant's conduct and the prosecutor's arguments that the culpable mental states apply to the nature of his conduct; and (2) the prosecutor's argument and the verdict forms that required the jury

EXH(1)BIT3

to unanimously acquit him of murder before it could consider the lesser-included offenses. Applicant also contends that appellate counsel was ineffective for failing to raise the issue on appeal that the trial court erred in failing to limit the definitions of the culpable mental states to the result of Applicant's conduct. The trial court has determined that both trial counsel and appellate counsel were ineffective and recommends that we grant relief. However, we find that the record does not support the trial court's conclusions that Applicant was harmed by trial counsel's and appellate counsel's alleged failures. All relief is denied.

Filed: September 22, 2021

Do not publish

IN THE 161ST DISTRICT COURT
OF ECTOR COUNTY, TEXAS

EX PARTE

SHAWN PAUL PINSON

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CAUSE NO. B-44,548-A

RECOMMENDATION AND ORDER

The Court recommends a new trial or, in the alternative, an out-of-time appeal.

The District Clerk is ordered to prepare a transcript of all papers in this cause and send it to the Court of Criminal Appeals as provided by article 11.07 of the Code of Criminal Procedure. The transcript shall include certified copies of the following documents:

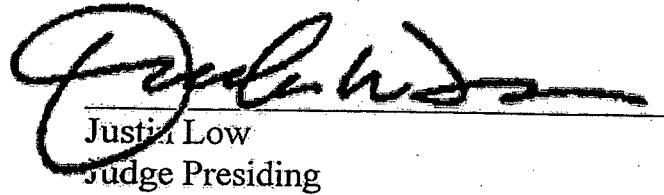
- a. the indictment and judgment;
- b. the application for a writ of habeas corpus;
- c. the brief;
- d. the exhibits;
- e. the motions;
- f. the State's answer;
- g. all other documents filed by the applicant;
- h. the appellate record in cause number B-44,548;
- i. the reporter's record from the evidentiary hearing;
- j. the applicant's proposed findings of fact and conclusions of law;
- k. the State's proposed findings of fact and conclusions of law;

- I. the Court's findings of fact and conclusions of law; and
- m. any objections filed by either party to the Court's findings of fact and conclusions of law.

The District Clerk shall send a copy of this order to the applicant, his counsel, and counsel for the State.

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SIGNED and ENTERED on _____, 2021.



Justin Low
Judge Presiding