



SHARON KELLER
PRESIDING JUDGE

BARBARA P. HERVEY
BERT RICHARDSON
KEVIN P. YEARY
DAVID NEWELL
MARY LOU KEEL
SCOTT WALKER
MICHELLE M. SLAUGHTER
JESSE F. MCCLURE, III
JUDGES

COURT OF CRIMINAL APPEALS

P.O. BOX 12308, CAPITOL STATION
AUSTIN, TEXAS 78711

DEANA WILLIAMSON
CLERK
(512) 463-1551

SIAN SCHILHAB
GENERAL COUNSEL
(512) 463-1597

Wednesday, August 25, 2021

Presiding Judge 148th District Court
901 Leopard, Ste 903
Corpus Christi, Tx 78401-3688
* Delivered Via E-Mail *

Re: Vasquez, Richard
CCA No. WR-59,201-03
Trial Court Case No. 98-CR-0730-E (2)

Dear Judge:

Enclosed herein is an order entered by this Court regarding the above-referenced applicant.

If you should have any questions concerning this matter, please do not hesitate to contact me.

Sincerely,

/s/ Sian Schilhab
Sian Schilhab
General Counsel

cc: Richard Vasquez
Thomas M. Farrell (Delivered Via E-Mail)
Debra Gibbs (Delivered Via E-Mail)
Edward L. Marshall (Delivered Via E-Mail)
District Clerk Nueces County (Delivered Via E-Mail)
Andrew M. Edison (Delivered Via E-Mail)
District Attorney Nueces County (Delivered Via E-Mail)



**IN THE COURT OF CRIMINAL APPEALS
OF TEXAS**

NO. WR-59,201-03

EX PARTE RICHARD VASQUEZ, Applicant

**ON APPLICATION FOR POST-CONVICTION WRIT OF HABEAS CORPUS IN
CAUSE NO. 98-CR-0730-E IN THE 148TH JUDICIAL DISTRICT COURT
NUECES COUNTY**

Per curiam.

O R D E R

This is a subsequent application for a writ of habeas corpus filed pursuant to the provisions of Texas Code of Criminal Procedure Article 11.071 § 5.¹

In June 1999, a jury found Applicant guilty of the offense of capital murder for the death of four-year-old M.L., his girlfriend's daughter from another relationship. The jury answered the special issues submitted pursuant to Article 37.071, and the trial court,

¹ Unless otherwise stated, all subsequent references to "articles" in this order refer to the Texas Code of Criminal Procedure.

accordingly, set Applicant's punishment at death. This Court affirmed Applicant's conviction and sentence on direct appeal. *Vasquez v. State*, No. AP-73,461 (Tex. Crim. App. Oct. 3, 2001) (not designated for publication). This Court denied relief on Applicant's initial post-conviction application for a writ of habeas corpus, and it dismissed a subsequent writ application in the same order. *Ex parte Vasquez*, Nos. WR-59,201-01 & WR-59,201-02 (Tex. Crim. App. Jan. 26, 2005) (not designated for publication).

On April 15, 2015, Applicant filed in the trial court this, his second subsequent application for a writ of habeas corpus. Therein, Applicant raised three claims alleging that he is entitled to habeas corpus relief from his conviction and sentence because: (1) pursuant to Article 11.073, "there is new scientific evidence that he did not cause the death of [M.L] that was not available at trial and the new scientific evidence contradicts scientific evidence relied on by the state at trial" (Claim 1); (2) the State obtained his conviction and sentence with evidence that is now known to be false, in violation of his due process rights and *Ex parte Chabot*² (Claim 2); and (3) he is actually innocent. After reviewing Applicant's habeas application, we determined that his claims met the dictates of Article 11.071 § 5 and we remanded them to the trial court for findings of fact, conclusions of law, and a recommendation as to the merits. *Ex parte Vasquez*, No. WR-59,201-03 (Tex. Crim. App. Mar. 23, 2016) (not designated for publication).

The trial court held an evidentiary hearing. At the beginning of the hearing,

² 300 S.W.3d 768 (Tex. Crim. App. 2009).

Applicant's counsel announced that Applicant was abandoning his actual innocence claim (Claim 3). The trial court thereafter made findings of fact and conclusions of law recommending that we deny habeas relief on Applicant's remaining two claims.

We have reviewed the habeas record and conclude that it supports the trial court's findings of fact, conclusions of law, and recommendation. We therefore adopt the trial court's findings of fact and conclusion of law. Based on those findings and conclusions and our independent review of the record, we deny habeas relief on Applicant's Claims 1 and 2, and we dismiss Applicant's Claim 3, his actual innocence allegation.

IT IS SO ORDERED THIS THE 25TH DAY OF AUGUST, 2021.

Do Not Publish