

Nos. 23A410 & 23-5421

IN THE
Supreme Court of the United States

BRENT RAY BREWER,
Petitioner,

v.

BOBBY LUMPKIN, Director,
Texas Department of Criminal Justice,
Correctional Institutions Division
Respondent.

On Petition for a Writ of Certiorari to the
United States Court of Appeals for the Fifth Circuit

**APPENDIX TO BRIEF IN OPPOSITION TO APPLICATION FOR
A STAY OF EXECUTION AND PETITION FOR REHEARING
(EXECUTION SCHEDULED FOR NOVEMBER 9, 2023)**

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INDEX TO APPENDIX

Appendix A: Per curiam order from *Ex parte Brewer*, No. WR-46,587-05 (Tex. Crim. App. Nov. 7, 2023), dismissing subsequent application as abuse of the writ..... A1



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

NO. WR-46,587-05

EX PARTE BRENT RAY BREWER, Applicant

**ON APPLICATION FOR WRIT OF HABEAS CORPUS
CAUSE NO. W-6997-A-4 IN THE 47TH JUDICIAL DISTRICT COURT
RANDALL COUNTY**

Per curiam.

ORDER

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 and a motion to stay Applicant's execution.¹

In June 1991, a jury convicted Applicant of capital murder and answered the punishment questions in a manner requiring the judge to sentence him to death. We affirmed his conviction and sentence on direct appeal, but his sentence was later vacated

¹ Unless otherwise indicated, all references to Articles in this order refer to the Code of Criminal Procedure.

by a federal district court. *See Brewer v. State*, No. AP-71,307 (Tex. Crim. App. June 22, 1994) (not designated for publication); *see also Brewer v. Dretke*, 2004 U.S. Dist. LEXIS 14761 (N.D. Tex. Aug. 2, 2004); *Brewer v. Quarterman*, 550 U.S. 286 (2007); *Brewer v. Quarterman*, 512 F.3d 210 (5th Cir. Tex. 2007). Applicant received a new punishment hearing in 2009, and a jury again answered the punishment questions in a manner requiring the judge to sentence him to death. This Court again affirmed his sentence on direct appeal. *See Brewer v. State*, No. AP-76,378 (Tex. Crim. App. Nov. 23, 2011) (not designated for publication).

This Court also denied relief on the claims raised in Applicant's initial habeas application and his initial habeas application after the punishment retrial. *Ex parte Brewer*, 50 S.W.3d 492 (Tex. Crim. App. 2001); *Ex parte Brewer*, No. WR-46,587-02 (Tex. Crim. App. Sept. 17, 2014) (not designated for publication). The Court dismissed Applicant's subsequent application as an abuse of the writ. *Ex parte Brewer*, No. WR-46,587-03 (Tex. Crim. App. Oct. 23, 2019) (not designated for publication). Applicant's instant post-conviction application for a writ of habeas corpus was filed in the trial court on November 1, 2023.

In his application, Applicant alleges that the State presented expert testimony from Dr. Richard Coons at his punishment retrial that was false and misleading. We have reviewed the application and find that Applicant has failed to show that he satisfies the requirements of Article 11.071 § 5. Accordingly, we dismiss the application as an abuse of the writ without reviewing the merits of the claims raised. Art. 11.071 § 5(c). We

deny Applicant's motion to stay his execution.

IT IS SO ORDERED THIS THE 7th DAY OF NOVEMBER, 2023.

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