Addendum A

IN THE COURT OF CRIMINAL APPEALS
OF TEXAS

NOS. WR-86,569-01 & -02

EX PARTE WILLIE ROY JENKINS, Applicant

ON INITIAL AND SUBSEQUENT APPLICATIONS FOR POST-CONVICTION WRITS OF HABEAS CORPUS
CAUSE NOs. CR-10-1063-C-WHC1 AND CR-10-1063-C-WHC2 IN THE 274th JUDICIAL DISTRICT COURT
HAYS COUNTY

Per curiam.

O R D E R

Before the Court are Applicant Willie Roy Jenkins's initial and first subsequent applications for writs of habeas corpus, filed pursuant to the provisions of Texas Code of Criminal Procedure Article 11.071.[1]

In 2013, a jury convicted Applicant of murdering Sheryl Norris in November 1975

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

in the course of committing or attempting to commit aggravated rape.[2] *See* TEX. PENAL CODE ANN. § 19.03(a)(2). Among other things, the State presented evidence that Applicant's DNA was found in Norris's vagina as well as on the blouse she was wearing when she died. Based on the jury's answers to the special issues submitted pursuant to Article 37.0711, the trial court sentenced Applicant to death. This Court affirmed Applicant's conviction and death sentence on direct appeal. *Jenkins v. State*, 493 S.W.3d 583 (Tex. Crim. App. 2016).

Applicant filed his initial Article 11.071 habeas application (our -01) in the trial court on July 9, 2015. He raises nine claims for habeas relief:

- "[Applicant's] due process rights were violated when the State used false evidence to obtain a guilty verdict" (Initial Writ Claim 1);
- "Trial counsel provided ineffective assistance during the guilt/innocence phase of [Applicant's] trial" (Initial Writ Claim 2);
- "[Applicant's] due process rights were violated when the State obtained a death sentence through the use of false and misleading expert testimony" (Initial Writ Claim 3);
- "Trial counsel provided ineffective assistance during the punishment phase of [Applicant's] trial" (Initial Writ Claim 4);
- "Trial counsel were ineffective when they created a conflict of interest by representing [Applicant] after their qualifications were challenged" (Initial Writ Claim 5);
- "Trial counsel provided ineffective assistance during the jury selection phase of

[2] The version of the capital murder statute in effect at the time of the offense used the term "rape." In 1983, the Legislature changed the term to "sexual assault." *See* Acts 1983, 68th Leg., p. 5317, ch. 977 (regarding Texas Penal Code Section 19.03(a)(2)).

[Applicant's] trial" (Initial Writ Claim 6);

- "[Applicant's] death sentence is unconstitutional because his ability to investigate and present evidence was impeded by excessive passage of time before his trial" (Initial Writ Claim 7);
- "[Applicant's] death sentence must be vacated because the punishment phase jury instruction restricted the evidence that the jury could determine was mitigating" (Initial Writ Claim 8); and
- "The cumulative impact of the preceding errors requires reversal" (Initial Writ Claim 9).

In May 2022, after holding a live evidentiary hearing on several of Applicant's initial writ claims, the trial court signed an order in which it: (1) adopted all of the State's proposed findings of fact and conclusions of law, save for numbers 74, 101, 127, 150, 171, 203 through 205, 232, 395, 485, 530, 556, 589 through 591, 748, 775 through 776, 797 through 799, 843, 915 through 916, 927 through 928, and 938 through 939; and (2) recommended that this Court deny habeas relief on all of Applicant's initial writ claims, either on procedural or substantive grounds, or both. The trial court then forwarded a partial habeas record to this Court.

Meanwhile, in 2017, pursuant to a request from the Hays County District Attorney's Office, the Texas Department of Public Safety (DPS) undertook a reinterpretation of the DNA evidence relied on by the State at Applicant's trial. DPS's DNA Section Supervisor, Allison Heard, spearheaded the lengthy reinterpretation process.

In July 2022, after the parties had submitted their proposed findings of fact and

conclusions of law regarding Applicant's initial writ claims, but while his initial application was still pending before this Court, Heard notified the parties of certain developments that had arisen during the reinterpretation process. In January 2023, while this Court was still awaiting a complete habeas record for the initial application, and before the complete DNA reinterpretation results were available, Applicant filed a "Motion to Stay Article 11.071 Proceedings" with us. Therein, Applicant referenced the developments noted by Heard and asked us to stay his initial writ proceedings so that he could review the information Heard provided, assess its significance, and if necessary, move to admit additional evidence into the habeas record. In light of this information, we remanded Applicant's case to the trial court, instructing it to consider the issues discussed in Applicant's motion, determine whether they affected his initial writ claims, and make additional or different findings of fact and conclusions of law should it be necessary. *Ex parte Jenkins*, No. WR-86,569-01 (Tex. Crim. App. Mar. 1, 2023) (not designated for publication).

In late 2023, DPS completed its reinterpretation of the DNA evidence in Applicant's case and reported the results. Most significantly, Heard reported that Applicant is linked even more strongly as the contributor to the DNA in Norris's vagina (by odds in the septillions versus the previous quadrillions). However, the DNA on Norris's blouse cannot now be interpreted due to newly detected low-level contamination associated with her previously known profile.

In December 2024, the trial court entered supplemental findings of fact and conclusions of law, which were forwarded to this Court. In these supplemental findings and conclusions, the trial court determined that: (1) the post-trial DNA developments are factually unrelated to and have no effect on any of Applicant's initial writ allegations; (2) any new factual allegations or claims predicated on the post-trial DNA developments would be untimely amendments to Applicant's initial writ application under Article 11.071, Section 5(f); and therefore, (3) any such claims would be subsequent and the trial court would have no jurisdiction over them unless and until this Court determined that the allegations met an exception under Section 5(a).

The circumstances that led this Court to remand Applicant's initial habeas application also prompted Applicant, on May 14, 2024, to file his first subsequent application in the trial court. Applicant raises four claims in his subsequent application, the majority of which concerns the results of the reinterpretation of the DNA evidence from his case:

- "[Applicant] is entitled to relief under Article 11.073 because new scientific evidence contradicts the State's DNA [evidence] at trial" (Sub-writ Claim 1);
- "Scientific evidence presented by the State at trial was false and misleading" (Sub-writ Claim 2);
- "[Applicant] is actually innocent of the capital murder for which he is death-sentenced" (Sub-writ Claim 3); and
- "[Applicant's] Sixth Amendment right to a public trial was violated when the courtroom doors were locked during his capital jury selection" (Sub-writ Claim 4).

We turn first to Applicant's initial habeas application. We have reviewed the record regarding the nine allegations he has raised. Initial Writ Claims 1, 3, 5, 7, and 8 are procedurally barred from receiving a merits' review because they were raised and rejected on direct appeal, or they could have been raised on direct appeal, but were not. *See Ex parte Hood*, 304 S.W.3d 397, 402 n.21 (Tex. Crim. App. 2010); *Ex parte Nelson*, 137 S.W.3d 666, 667 (Tex. Crim. App. 2004). Alternatively, Applicant is not entitled to relief on the merits of these claims.

Applicant's allegations—that trial counsel rendered constitutionally ineffective assistance at various phases of his trial (Initial Writ Claims 2, 4, and 6)—likewise fail on the merits. Applicant has not met his burden under *Strickland v. Washington*, 46 U.S. 668 (1984), to show by a preponderance of the evidence that his counsel's representation fell below an objective standard of reasonableness and that there as a reasonable probability that the results of the proceedings would have been different but for counsel's deficient performance. *See Ex parte Overton*, 444 S.W.3d 632, 640 (Tex. Crim. App. 2014) (citing *Strickland*, 466 U.S. at 688). Applicant's claim of cumulative error (Initial Writ Claim 9) also fails on the merits because he presents no error to cumulate. *See Chamberlain v. State*, 998 S.W.2d 230 (Tex. Crim. App. 1999).

We adopt the trial court's original findings of fact and conclusions of law (except for numbers 226 and 227) as well as its supplemental findings and conclusions. Based on the trial court's findings and conclusions that we adopt and our own review, we deny

habeas relief as to all of the claims in Applicant's initial writ application.

Turning to Applicant's first subsequent application, we have reviewed his four allegations and conclude that he has failed to satisfy the requirements of Article 11.071, Section 5(a). Accordingly, we dismiss Applicant's subsequent application as an abuse of the writ without considering the merits of the claims.

IT IS SO ORDERED THIS 16th DAY OF APRIL, 2025.

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