



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-86,567-01

EX PARTE MARK ANTHONY GONZALEZ, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 2011-CR-5289 IN THE 175TH DISTRICT COURT
BEXAR COUNTY**

PARKER, J., filed a concurring opinion.

CONCURRING OPINION

Applicant ambushed and brutally murdered a police officer just because he wanted to. In doing so, he fired 46 shots. Bullets tore into the officer's flesh—fracturing bones, and tearing apart his face, skull, neck, chest, and lower abdomen. Bullets also tore through the officer's heart, lungs, diaphragm, intestines, colon, and liver. His spinal cord was severed, his sternum was destroyed, his clavicles were shattered, his ribs were fractured, and his front chest wall was pulpified.

Applicant showed absolutely no remorse in the immediate aftermath of the crime or during the week between the crime and his arrest. Instead, soon after the offense, he sought a friend's silence on the crime, and he chuckled at the friend's description of a large gathering of police vehicles in response to the offense. The week afterwards, Applicant spent time browsing internet pornography and getting drunk (or "fucked up") at parties.

A search of Applicant's residence revealed an AR-15 and a .22 caliber pistol. The search also revealed two gun magazines capable of being used with an AR-15 and of holding large amounts of ammunition—a 90-round magazine for .223-caliber bullets and a 100-round magazine for 7.62 mm cartridges. The .223 magazine contained 80 rounds of ammunition. If we just count the ammunition found, and take 40 as an approximate number of bullets Applicant would unload on a police officer, Applicant was capable of brutally killing two more officers in the same fashion he killed the victim. If we measure by the capacities of the two gun magazines, Applicant had the capability of slaughtering four more police officers in grisly fashion, if given the chance.

Given the overwhelming evidence of guilt, the gruesomeness and randomness of the crime, the victim's status as a police officer, and the reasonable inference that

Applicant would likely commit another such crime if given the chance, defending Applicant would be a very steep uphill battle. And Applicant's conduct during the course of his attorneys' representation made that very difficult task virtually impossible. Applicant insisted that he was innocent—a preposterous proposition. He fired his first set of attorneys because they wanted a defense focused on the more realistic goal of punishment mitigation. Applicant saw such a goal as giving up and concluded that his attorneys were conspiring with the State.

His second set of attorneys knew they had to walk a tightrope. They had to come up with a theory for challenging guilt to satisfy Applicant, and they had to come up with a punishment case without alienating him. They came up with an automatism defense to guilt that was extremely unlikely to succeed, but it was at least a defensive position challenging guilt. And they focused mainly on Applicant's good qualities, which would reinforce the guilt-stage narrative that the offense was an aberration and still provide at least some help at punishment.

The good-qualities punishment case was weak, but any focus on Applicant having mental illness or having suffered trauma ran into Applicant's aversion to even investigating such evidence. Applicant constantly pushed back against the very idea of presenting mitigation evidence and refused to provide the defense team with access

to historical information or family members. He insisted that he had a happy childhood and was not abused. And interviews with his friends and his wife reinforced that conclusion—that he had not suffered “any real trauma” during his childhood.

He allowed the defense team to talk to his mother, but she abetted Applicant in refusing access to any remaining family members, and her alignment with Applicant’s unrealistic goals created further problems. Had the defense tried to investigate Applicant’s background behind his back, his mother would likely have discovered it and informed him about it.

And even if the attorneys could successfully conduct a surreptitious investigation, any presentation of the results of that investigation would alert Applicant that they had gone behind his back—destroying the trust foundation that the second set of attorneys were working hard to build with him. That trust foundation was important not only because Applicant could fire his attorneys but also because he had been known to make outbursts in the courtroom. Applicant had already made an outburst against his prior attorneys in pretrial proceedings that the State was able to use at trial. Evidence of another outburst would have seriously harmed the defense, and an outburst in front of the jury would likely have been catastrophic.

I agree with the Court's conclusion that Applicant suffered no prejudice. Even if Applicant's habeas evidence had been introduced at trial, it would not have changed the outcome. But I also do not think that Applicant's attorneys performed deficiently. Applicant's attorneys did the best that could be reasonably expected of them under very difficult circumstances.

Filed: August 20, 2026

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