

No. \_\_\_\_\_

---

IN THE  
SUPREME COURT OF THE UNITED STATES

---

PABLO LUCIO VASQUEZ  
Petitioner

v.

TEXAS  
Respondent

MOTION FOR STAY OF EXECUTION

Related Case – No. 14-9336

1. Pablo Lucio Vasquez moves the Court to stay his execution, currently scheduled for 6 April 2016. A copy of the amended order setting date for execution is attached.

2. Vasquez was charged in No. CR-1054-98-D with capital murder, the indictment alleging that, on or about 18 April 1998, in Hidalgo County, Texas, he intentionally caused the death of David Cardenas by striking him with a metal pipe, by striking him with a shovel, or by cutting him with a knife, and that movant was then and there in the course of committing and attempting to commit the offense of robbery of Cardenas.

3. On 9 February 1999, a jury in the 206<sup>th</sup> District Court of Hidalgo County, Texas, found Vasquez guilty of capital murder.

4. On 11 February 1999, the jury answered the first punishment phase question in the affirmative, and the second in the negative.

5. On 10 March 1999, the District Court sentenced Vasquez to death.

6. On 4 December 2015, the District Court entered an amended order setting the date for Vasquez to be executed as Wednesday, 6 April 2016.

7. In accordance therewith, on 9 December 2015, the District Clerk of Hidalgo County issued a death warrant.

8. On 21 January 2016, pursuant to Texas Code of Criminal Procedure article 11.071, Vasquez filed a subsequent application for writ of habeas corpus with the District Court of Hidalgo County. The sole Ground for Relief raised therein is the Ground for Relief raised in the petition for writ of certiorari accompanying this motion.

9. Also on 21 January 2016, Vasquez filed a motion for stay of execution and to withdraw death warrant with the District Court of Hidalgo County.

10. On 25 January 2016, The State of Texas filed a motion to send subsequent writ to the Texas Court of Criminal Appeals.

11. Also on 25 January 2016, the State filed a response to Vasquez' motion for stay of execution and to withdraw death warrant.

12. On 26 January 2016, the District Court denied Vasquez' motion for stay of execution as premature.

13. On 14 February 2016, Vasquez filed a motion for stay of execution with the Court of Criminal Appeals.

14. On 24 February 2016, the Court of Criminal Appeals denied Vasquez' application for writ of habeas corpus as an abuse of the writ, and denied Vasquez' motion for stay of execution.

15. On 16 March 2016, Vasquez filed with the United States District Court for the Southern District of Texas, McAllen Division, a 28 U.S.C. § 2254 petition for writ of habeas corpus, raising as the sole Ground for Relief that he is mentally ill, and that his execution would accordingly violate the prohibition against cruel and unusual punishment of the 8<sup>th</sup> and 14<sup>th</sup> Amendments to the Constitution of the United States of America. This is NOT the Ground for Relief raised in the petition for writ of certiorari accompanying this motion.

16. Also on 16 March 2016, Vasquez filed a motion for stay of execution with the United States District Court for the Southern District of Texas, McAllen Division.

17. On 22 March 2016, United States Magistrate Judge Dorina Ramos, in No. 7:16-cv-115, filed her Report and Recommendation, recommending that Vasquez' petition for writ of habeas corpus be denied, and dismissed with prejudice; that his motion for stay of execution be denied; and that he be denied a certificate of appealability.

18. On 27 March 2016, Vasquez timely filed his objections.

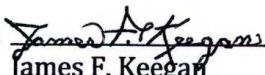
19. On 29 March 2016, United States District Judge Randy Crane, adopting the Report and Recommendation of the Magistrate Judge, denied, and dismissed with prejudice, Vasquez' petition for writ of habeas corpus; denied his motion for stay of execution; and denied him a certificate of appealability.

20. Vasquez does not intend to appeal the order of the United States District Judge.

21. A stay of execution is necessary to give the Court adequate time to consider the merits of the petition for writ of certiorari accompanying this motion.

22. PRAYER. Pablo Lucio Vasquez accordingly prays that the Court stay his execution.

Respectfully submitted,  
Pablo Lucio Vasquez  
Movant

By:   
James F. Keegan  
Texas Bar No. 11155400  
4421 Jim West Street  
Bellaire, Texas 77401  
713-668-4797  
713-668-4798-facsimile  
[whynyet@sbcglobal.net](mailto:whynyet@sbcglobal.net)  
Attorney for movant

CAUSE NO. CR-1054-98-D

THE STATE OF TEXAS                      §        IN THE 206TH DISTRICT COURT

VS. § OF

PABLO LUCIO VASQUEZ                      §            HIDALGO COUNTY, TEXAS

AMENDED ORDER SETTING DATE FOR EXECUTION

On this, the 4<sup>th</sup> day of December, 2015, this Court finds it necessary to enter an order of execution and set the date of execution of PABLO LUCIO VASQUEZ for the reasons outlined below.

PABLO LUCIO VASQUEZ was charged by indictment with the offense of Capital Murder, based on an allegation that he had caused David Cardenas' death "while in the course of committing and attempting to commit the offense of Robbery of David Cardenas".

On February 9, 1999, in the 206th District Court of Hidalgo County, Texas, PABLO LUCIO VASQUEZ was duly and regularly convicted of said offense in cause number CR-1054-98-D in the 206th District Court of Hidalgo County, Texas.

On February 12, 1999, the jury answered "Yes" to the future dangerousness death penalty case special issue and "No" to the mitigating circumstances issue.

Accordingly, on March 10, 1999, PABLO LUCIO VASQUEZ was duly and legally sentenced to death by this Court.

On April 10, 2002, the Court of Criminal Appeals affirmed PABLO LUCIO VASQUEZ' capital murder conviction and death sentence.

On May 6, 2002, the Texas Court of Criminal Appeals issued its mandate.

On May 29, 2002, the Texas Court of Criminal Appeals denied an initial state court application for writ of habeas corpus which had been filed on behalf of PABLO LUCIO VASQUEZ pursuant to TEX. CODE CRIM. PROC. ANN. Art. 11.071.

On March 12, 2003, attorney James F. Keegan filed a second state court application for writ of habeas corpus, this one asserting an intellectual disability/mental retardation claim.

On May 7, 2003, the Court of Criminal Appeals noted that Pablo Lucio Vasquez had asserted 13 allegations in his subsequent application; concluded that his intellectual disability claim met the requirements for consideration of a claim asserted in a subsequent application for writ; and dismissed Pablo Lucio Vasquez' other 12 claims as an abuse of the writ.

When this court then considered the intellectual disability claim on the merits, it recommended that the relief sought by Pablo Lucio Vasquez be denied.

On March 10, 2004, the Court of Criminal Appeals adopted said recommendation and denied relief in regard to the intellectual disability claim asserted in Pablo Lucio Vasquez' subsequent application for writ.

In April of 2004, Pablo Lucio Vasquez filed a federal application for a writ of habeas corpus in the United States District Court of the Southern District of Texas.

In December of 2005, a United States magistrate judge recommended that certain claims raised by Pablo Lucio Vasquez be dismissed on the basis of procedural default.

Subsequent to this recommendation, but before the district court had acted, the U.S. Supreme Court recognized a limited exception to the procedural default rule for claims of ineffective assistance of trial counsel and determined that this exception applies to Texas capital cases. See Trevino v. Thaler, \_\_\_ U.S. \_\_\_, 133 S.Ct. 1911, 185 L.Ed.2d 1044 (2013); Martinez v. Ryan, \_\_\_ U.S. \_\_\_, 133 S.Ct. 1309, 182 L.Ed.2d 272 (2012).

After receiving supplemental briefing from the parties regarding the applicability of those cases, the magistrate judge concluded that Trevino and Martinez were inapplicable; again recommended that the claims be dismissed as procedurally barred; and, in doing so, reached the merits of Pablo Lucio Vasquez' ineffective assistance of counsel claims.

In March of 2014, the United States district court adopted the magistrate judge's recommendation and granted the State's motion for summary judgment.

Four months later, the United States district court denied Pablo Lucio Vasquez' request for a certificate of appealability to appeal five of the thirteen issues raised in his habeas petition.

When Pablo Lucio Vasquez then appealed to the Fifth Circuit Court of Appeals, said Court denied his request for a certificate of appealability and affirmed the ruling of the federal district court on January 23, 2015.



On October 5, 2015, the U.S. Supreme Court denied a petition for writ of certiorari which Pablo Lucio Vasquez had filed.

There are no stays of execution in effect in this case.

Accordingly, this Court has the duty to set an execution date in the above-referenced case.

However, in carrying out said task, this Court recognizes that TEX. CODE CRIM. PROC. ANN. Art. 43.141 (c) requires that the first date set not be any earlier than the 91st day after the date on which it enters the order setting the execution date.

Therefore, this Court now enters the following order.

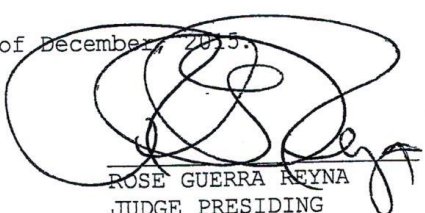
IT IS HEREBY ORDERED that the Defendant, PABLO LUCIO VASQUEZ, who has been adjudged to be guilty of the offense of Capital Murder as charged in the indictment in this cause and whose punishment has been assessed by the verdict of the jury and the judgment of this court at Death, shall be kept in custody by the Director of the Correctional Institutions Division of the Texas Department of Criminal Justice until Wednesday, the 6th day of April, 2016, upon which day, at any hour after 6:00 p.m., in a room arranged for the purpose of execution, said Director, acting by and through the executioner designated by said Director as provided by law, is hereby commanded, ordered, and directed to carry out this sentence of death by intravenous injection of a substance or substances in a lethal quantity sufficient to cause the death of the said PABLO LUCIO VASQUEZ and until the said PABLO LUCIO VASQUEZ is dead, such procedure to be determined and supervised by said Director of Correctional Institutions Division of the Texas Department of Criminal Justice.

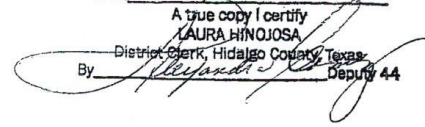
The District Clerk in and for Hidalgo County, Texas is ordered to issue and deliver to the Sheriff of Hidalgo County, Texas a Death Warrant in accordance with this Order, directed to the Director of the Correctional Institutions Division of the Texas Department of Criminal Justice, at Huntsville, Texas, commanding him, the said Director, to put into execution the Judgment of Death against the said PABLO LUCIO VASQUEZ.

The Sheriff of Hidalgo County, Texas is hereby ordered, upon receipt of this Warrant, to deliver said Warrant to the Director of the Correctional Institutions Division of the Texas Department of Criminal Justice, Huntsville, Texas, for the purpose of executing this warrant, and to take from the Director the proper receipt for this warrant, and the Sheriff shall return said receipt to the office of the District Clerk of Hidalgo County, Texas.

In accordance with the requirement to do so contained in TEX. CODE CRIM. PROC. ANN. Art. 43.141, as amended effective September 1, 2015, this Court further orders the District Clerk to send a copy of this order by first-class mail, e-mail, or fax to (1) Mr. Keegan and (2) the State Office of Capital Writs "(n)ot later than the second business day" after the date on which this order is entered.

Signed on this, the 4<sup>th</sup> day of December, 2015.

  
ROSE GUERRA REYNA  
JUDGE PRESIDING  
206TH DISTRICT COURT  
HIDALGO COUNTY, TEXAS

DATE 12/9/15  
A true copy I certify  
LAURA HINOJOSA  
District Clerk, Hidalgo County, Texas  
By  Deputy 44