



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NOS. WR-27,328-03 and WR-27,328-04

EX PARTE ROLANDO RUIZ, Applicant

**ON APPLICATION FOR POST-CONVICTION WRIT OF HABEAS CORPUS
IN CAUSE NO. 92-CR-6718-B IN THE 227TH DISTRICT COURT
BEXAR COUNTY**

***Per curiam.* KELLER, P.J., and KEASLER, J., dissent. HERVEY and YEARY, JJ., not participating.**

ORDER

We have before us a post-conviction application for a writ of habeas corpus filed pursuant to the provisions of Texas Code of Criminal Procedure Article 11.071 § 5, a suggestion that the Court reconsider a previously filed application, and a motion to stay the execution.

In January 1995, a jury convicted applicant of the offense of capital murder. The jury answered the special issues submitted pursuant to Texas Code of Criminal Procedure

Article 37.071, and the trial court, accordingly, set punishment at death. This Court affirmed applicant's conviction and sentence on direct appeal. *Ruiz v. State*, No. AP-72,072 (Tex. Crim. App. Feb. 25, 1998)(not designated for publication). On September 15, 1997, applicant filed in the convicting court his initial post-conviction application for a writ of habeas corpus. This Court denied applicant relief. *Ex parte Ruiz*, No. WR-27,328-02 (Tex. Crim. App. Apr. 2, 2003)(not designated for publication).

On July 2, 2007, applicant filed in the convicting court his first subsequent application. In that application, applicant claimed that his trial counsel performed deficiently by failing to investigate and present mitigating evidence at the punishment phase of trial, and his initial habeas counsel performed deficiently by not raising this issue in applicant's initial writ application. This Court found that the application did not meet the requirements of Article 11.071 § 5 and dismissed it. *Ex parte Ruiz*, No. WR-27,328-03 (Tex. Crim. App. July 6, 2007)(not designated for publication). Applicant filed this, his second subsequent writ application, in the convicting court on August 12, 2016.

In his second subsequent application, applicant asserts that: (1) his trial counsel performed deficiently by failing to investigate and present mitigating evidence at the punishment phase of trial, and his initial habeas counsel performed deficiently by not raising this issue in applicant's initial writ application; and (2) executing him over two decades after his conviction violates the Eighth Amendment to the United States Constitution. After reviewing applicant's writ application, we have determined that his

execution should be stayed pending further order by this Court.

IT IS SO ORDERED THIS THE 26th DAY OF AUGUST, 2016.

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