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APPENDIX B

IN THE COURT OF CRIMINAL APPEALS
OF TEXAS

NO. WR-81,573-02

EX PARTE JAMES GARFIELD BROADNAX,
Applicant

ON APPLICATION FOR WRIT OF HABEAS
CORPUS IN CAUSE NO. F-0824667-Y
IN CRIMINAL DISTRICT COURT NO. 7
DALLAS 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, § 5.¹

In August 2009, a jury convicted Applicant of the offense of capital murder for murdering Stephen Swan in the course of robbing or attempting to rob him. TEX. PENAL CODE 19.03(a)(2). The jury answered the special issues submitted under Article 37.071 of the Texas Code of Criminal Procedure, and the trial court, accordingly, set punishment at death. This Court affirmed Applicant's conviction and sentence on direct appeal,

¹ Unless we specify otherwise, all references in this order to "Articles" refer to the Texas Code of Criminal Procedure.

Broadnax v. State, No. AP-76,207 (Tex. Crim. App. Dec. 14, 2011) (not designated for publication), and denied relief on his initial Article 11.071 application for writ of habeas corpus, *Ex parte Broadnax*, No. WR-81,573-01 (Tex. Crim. App. May 20, 2015) (not designated for publication). We received this, Applicant's amended first subsequent application for a writ of habeas corpus, on February 15, 2023.

Applicant presents two allegations in his amended first subsequent application. In Claim 1, Applicant alleges that new, previously-unavailable evidence establishes that the State violated *Batson v. Kentucky*, 476 U.S. 79 (1986) at Applicant's trial. In Claim 2, Applicant asserts that new evidence establishes that the State violated Applicant's Fourteenth and Eighth Amendment rights by presenting false and misleading expert testimony and argument at the punishment phase of Applicant's trial.

We have reviewed the amended first subsequent application and find that Applicant has failed to satisfy the requirements of Article 11.071, § 5(a). Accordingly, we dismiss the amended first subsequent application as an abuse of the writ without considering the merits of the claims.

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

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