



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-78,123-02

EX PARTE RODOLFO ALVAREZ MEDRANO, Applicant

**ON APPLICATION FOR WRIT OF HABEAS CORPUS
CAUSE NO. CR-0942-03-F(2) IN THE 332ND JUDICIAL DISTRICT COURT
HIDALGO 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 2005, a jury convicted Applicant of the offense of capital murder based on his participation in a conspiracy to commit an armed robbery that resulted in the deaths of six persons. TEX. PENAL CODE §§ 7.02(b), 19.03(a)(7). The jury answered the special issues

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

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, *Medrano v. State*, No. AP-75,320 (Tex. Crim. App. Nov. 26, 2008) (not designated for publication), and denied relief on his initial Article 11.071 application for writ of habeas corpus, *Ex parte Medrano*, No. WR-78,123-01 (Tex. Crim. App. Feb. 8, 2017) (not designated for publication). We received this, Applicant's first subsequent application for a writ of habeas corpus, on February 13, 2023.

Applicant presents two allegations in the instant subsequent application. In Claim 1, Applicant alleges that his

right to an attorney and right to remain silent as guaranteed by the Fifth and Fourteenth Amendments to the United States Constitution were violated by the introduction of a statement obtained by police when they interrogated him after he invoked his right to counsel and failed to scrupulously honor his invocation of the right to remain silent.

In Claim 2, Applicant asserts that

the testimony of purported 'gang expert' Robert Alvarez was false both as to his qualifications and as to its substance, which substantially exaggerated [Applicant's] role, knowledge, and culpability, resulting in the violation of his right to due process under the Fourteenth Amendment, *Napue v. Illinois*, [360 U.S. 264 (1959)], *Brady v. Maryland*, [73 U.S. 83 (1963)], and *Ex parte Chabot*[, 300 S.W.3d 768 (Tex. Crim. App. 2009)].

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

IT IS SO ORDERED THIS THE 17TH DAY OF MAY, 2023.