



## IN THE COURT OF CRIMINAL APPEALS OF TEXAS

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NO. AP-76,932

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EX PARTE JOSE CARLOS BELMONT, Applicant

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ON APPLICATION FOR A WRIT OF HABEAS CORPUS  
CAUSE NO. 2008CR4397 IN THE 399<sup>TH</sup> CRIMINAL DISTRICT COURT  
FROM BEXAR COUNTY

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*Per curiam.*

### OPINION

Pursuant to the provisions of Article 11.07 of the Texas Code of Criminal Procedure, the clerk of the trial court transmitted to this Court this application for writ of habeas corpus. *Ex parte Young*, 418 S.W.2d 824, 826 (Tex. Crim. App. 1967). Applicant was convicted of two counts of capital murder and sentenced to two life sentences, running concurrently. He did not appeal his conviction.

Applicant contends that his convictions violate the Double Jeopardy Clause of the US Constitution. Applicant was indicted for killing two individuals during the same criminal episode. Under Section 19.03 of the Texas Penal Code, killing more than one person during the same criminal

transaction is capital murder. This is one offense of capital murder under Tex. Penal Code Sec. 19.03 (a)(7)(A). *Saenz v. State*, 166 S.W.3d 270, 272 (Tex. Crim. App. 2005). Applicant is entitled to relief.

Relief is granted. The judgment in count two of Cause No. 2008CR4397 in the 399<sup>th</sup> Judicial District Court of Bexar County is vacated and set aside. All challenges to the judgment in count one are denied. Applicant's claims of ineffective assistance of counsel and involuntary plea are denied.

Copies of this opinion shall be sent to the Texas Department of Criminal Justice-Correctional Institutions Division and Parole Division.

Delivered: December 19, 2012  
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