



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NOS. WR-74,743-01 & 74,743-02

EX PARTE LE JAMES NORMAN

ON APPLICATION FOR WRIT OF HABEAS CORPUS IN CAUSE
NO. 06-1-7346 IN THE 24TH DISTRICT COURT
JACKSON COUNTY

Per Curiam.

ORDER

In December 2008, 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. *Norman v. State*, No. AP-76,063 (Tex. Crim. App. February 16, 2011) (not designated for publication).

Applicant presents seven allegations in his application in which he challenges the validity of his conviction and resulting sentence. In an order dated August 24, 2011, we remanded this cause to the trial court for further consideration of Allegation G, in which

applicant claimed, “he was denied a fair trial when the State offered misleading, inaccurate and perjurious testimony of A. P. Merillat.” While the trial court addressed one complained-of instance of allegedly “misleading, inaccurate and perjurious testimony,” the trial court’s findings did not address other examples contained in an affidavit that was attached as an exhibit to the habeas application. Upon remand, the trial court found that “[b]ased upon the affidavits of Frank AuBuchon and A. P. Merillat . . . A. P. Merillat did not lie to the jury nor mislead the jury in any way.”

This Court has reviewed the record with respect to the allegations made by applicant. We adopt the trial court’s original findings and conclusions, as well as the trial court’s findings and conclusions on remand. Further, the allegation of ineffective assistance of counsel contained in Allegation E is without merit because applicant has failed to demonstrate deficient performance and prejudice. *See Strickland v. Washington*, 466 U.S. 668 (1984). Based upon the trial court’s findings and conclusions and our own review, relief is denied.

Applicant additionally filed a subsequent application with the trial court on March 31, 2012. We have reviewed the application and find that the allegations do not satisfy the requirements of Article 11.071, Section 5. Therefore, we dismiss this application as an abuse of the writ.

IT IS SO ORDERED THIS THE 22ND DAY OF AUGUST, 2012.

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