



# IN THE COURT OF CRIMINAL APPEALS OF TEXAS

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NO. WR-46,210-11

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**EX PARTE MICHAEL GARRETT, Applicant**

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**ON APPLICATION FOR A WRIT OF HABEAS CORPUS  
IN CAUSE NO. F-9320131-SV FROM THE  
292<sup>ND</sup> DISTRICT COURT OF DALLAS COUNTY**

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**ALCALA, J., filed a concurring statement.**

## CONCURRING STATEMENT

I agree with this Court that Michael Garrett, applicant, has failed to properly raise his claim for a writ of habeas corpus under Texas Code of Criminal Procedure Article 11.073 because his writ application for retesting of DNA does not involve “relevant scientific evidence” that contradicts prior science. *See* TEX. CODE CRIM. PROC. art. 11.073. Instead, applicant’s claim should be raised on the basis of our DNA-testing statute, Chapter 64. *See id.* art. 64.01(b)(2) (allowing DNA testing of materials previously tested where possible “with newer testing techniques that provide a reasonable likelihood of results that are more accurate and probative”). With this comment, I join the Court’s disposition.

Filed: May 7, 2014

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