



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-77,584-01

EX PARTE RAFAEL GUILLEN, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 20070D05440 IN THE 205TH DISTRICT COURT
FROM EL PASO COUNTY**

Per curiam.

ORDER

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 a writ of habeas corpus. *Ex parte Young*, 418 S.W.2d 824, 826 (Tex. Crim. App. 1967). Applicant was convicted of capital murder and was sentenced to life in prison. The Eighth Court of Appeals affirmed the conviction. *Guillen v. State*, No. 08-08-00241 (Tex. App.—El Paso Jul. 28, 2010).

Applicant, through habeas counsel, raises a claim of ineffective assistance of trial counsel. *See Strickland v. Washington*, 466 U.S. 668 (1984). He asserts that trial counsel was deficient for failing to object to hearsay testimony given by an investigating detective who told the jury that his investigation showed that the murder was committed for remuneration. Applicant claims that,

without the detective's objectionable testimony, there was insufficient evidence to prove that the murder was for remuneration and was a capital offense. *See* TEX. PENAL CODE 19.03(a)(3). Although Applicant gave a confession to police admitting that he murdered the victim for remuneration, which confession was admitted into evidence at trial, he argues that, without the detective's objectionable hearsay testimony, there was no evidence corroborating the remuneration portion of his confession as required by the *corpus delicti* rule. *See Salazar v. State*, 86 S.W.3d 640, 644 (Tex. Crim. App. 2002) (discussing the *corpus delicti* rule).

This Court has made an independent review of the record, which includes the initial habeas record that was forwarded by the trial court and its supplement with the trial court's findings, Applicant's objections to the findings, and the reporter's record and clerk's record from the trial, which were forwarded to this Court by the intermediate court of appeals. Because Applicant has not demonstrated that he was harmed by counsel's alleged deficient performance in failing to object, this Court holds that his ineffective assistance of counsel claim lacks merit. *See Strickland, supra*. In reaching this holding, this Court expresses no opinion regarding whether the *corpus delicti* rule is applicable to the remuneration element of the capital murder and holds only that the evidence in Applicant's case was sufficient to corroborate his confession as to remuneration, even assuming that the rule applies. *See Gribble v. State*, 808 S.W.2d 65, 70 (Tex. Crim. App. 1990); *Monterrubio v. State*, 916 S.W.2d 506, 507 (Tex. Crim. App. 1996) (Keller, J., dissent). All relief is denied.

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