

Withdrawn

1-21-15



**IN THE COURT OF CRIMINAL APPEALS
OF TEXAS**

NO. WR-81,853-01

EX PARTE HUMBERTO RODRIGUEZ, JR., Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. CR-0403-00-A IN THE 92ND DISTRICT COURT
FROM HIDALGO COUNTY**

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 a writ of habeas corpus. *Ex parte Young*, 418 S.W.2d 824, 826 (Tex. Crim. App. 1967). Applicant was convicted of one count of capital murder and one count of aggravated kidnapping. He was sentenced to life imprisonment for the capital murder and twenty-eight years' imprisonment for the aggravated kidnapping. The Thirteenth Court of Appeals upheld the aggravated kidnapping conviction, but reversed the capital murder conviction on the basis that jurisdiction was not proper in Texas, because the killing took place in Mexico. *Rodriguez v. State*, No. 13-00-771-CR (Tex. App. – Corpus Christi, August 14,

2003). The State petitioned this Court for discretionary review, and this Court reversed the judgment of the court of appeals as to the capital murder conviction, and remanded to that court for further action. *Rodriguez v. State*, No. 1568-03 (Tex. Crim. App. 2004). On remand, the Thirteenth Court of Appeals affirmed the trial court's judgment. *Rodriguez v. State*, No., 13-00-771-CR (Tex. App. – Corpus Christi 2007).

Applicant contends, among other things,¹ that his convictions for both aggravated kidnapping and capital murder for murder in the course of an aggravated kidnapping violate the prohibition on double jeopardy. The trial court has determined that Applicant's convictions in both counts violate the prohibition on double jeopardy. Relief is granted. The judgment in Count Two of Cause No. CR-0403-00-A in the 92nd District Court of Hidalgo County is set aside, and the cause is remanded to the trial court with instructions to enter a judgment of acquittal as to Count Two.

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

Delivered: November 26, 2014
Do not publish

¹This Court has reviewed Applicant's other claims and finds them to be without merit.