



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-56,380-03

EX PARTE ANDREW WAYNE ROARK, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
IN CAUSE NO. W99-02290-L(C) IN CRIMINAL DISTRICT COURT NO. 5
FROM DALLAS COUNTY**

HERVEY, J., delivered the opinion of the Court in which RICHARDSON, YEARY, NEWELL, WALKER, SLAUGHTER, and McCLURE joined. KELLER, P.J. and KEEL, J., dissented.

OPINION

A jury convicted Andrew Wayne Roark, Applicant, of injury to a child in March 2000 and sentenced him to 35 years' imprisonment for causing serious bodily injury by vigorously shaking the 13-month-old victim. We filed and set this case to resolve two questions: (1) whether Applicant is entitled to a new trial under Article 11.073 of the Texas Code of Criminal Procedure based on new scientific evidence, and (2) whether the Due Process Clause was violated because the State's expert witness partially recanted her trial testimony. This case raises another important issue, however. Applicant alleges that

multiple areas of science have evolved since trial, but the habeas court asks us to address only one of those areas of science, Applicant's due-process claim, and further suggests that we remand if we conclude that Applicant is not entitled to relief.¹ However, without full presentment and examination of all issues in this application, we only invite piecemeal litigation, which is an inappropriate use of the Great Writ. Generally, all of an applicant's claims should be fully developed and ready to be resolved when the record is transmitted to this Court. That is not the case here.

We remand this cause to the habeas court. It shall make findings of fact and conclusions of law addressing each of Applicant's claims. The district clerk shall then immediately forward to this Court the habeas court's findings and conclusions and the record developed on remand.

Delivered: September 15, 2021

Publish

¹The habeas court wrote in its agreed supplemental findings of fact and conclusions of law that,

The Court, with the agreement of the State and Applicant Roark, also finds that, if the Court of Criminal Appeals grants relief on the basis of the new information concerning rebleeds, that it will not be necessary for the Court of Criminal Appeals to address the other grounds for relief raised by Roark. This includes the other areas of new science addressed in this Court's 2014 findings. This also includes the allegations raised by Roark of actual innocence, as well as any other grounds that are not addressed in these findings.