



## IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NOS. WR-53,613-10 & WR-53,613-11

EX PARTE LARRY RAY SWEARINGEN

ON APPLICATIONS FOR WRIT OF HABEAS CORPUS  
CAUSE NO. 99-11-06435-CR FROM THE 9<sup>TH</sup> DISTRICT COURT  
OF MONTGOMERY COUNTY

*Per Curiam.*

### ORDER

We have before us an application for writ of habeas corpus filed pursuant to Texas Code of Criminal Procedure Article 11.071, § 5.

Applicant was convicted of capital murder on June 28, 2000, and sentenced to death. We affirmed the conviction and sentence on direct appeal. *Swearingen v. State*, 101 S.W.3d 89 (Tex. Crim. App. 2003). On March 11, 2002, applicant filed in the trial court his initial application for writ of habeas corpus pursuant to Article 11.071. We denied relief. *Ex parte Swearingen*, No. WR-53,613-01 (Tex. Crim. App. May 21, 2003)(not designated for publication). On January 22, 2007, applicant filed a subsequent application in the convicting court. We remanded six of his claims to

the convicting court for resolution. After the case was returned to this Court, we reviewed the findings of the convicting court, adopted them, and denied his application. *Ex parte Swearingen*, No. WR-53,613-04 (Tex. Crim. App. Jan. 16, 2008)(not designated for publication). On January 16, 2008, applicant filed a second subsequent application in the convicting court. We remanded two of his claims to the convicting court for resolution. After the case was returned to this Court, we reviewed the findings of the convicting court, adopted them, and denied his application. *Ex parte Swearingen*, No. WR-53,613-05 (Tex. Crim. App. Dec. 17, 2008)(not designated for publication). Applicant filed two subsequent applications in the trial court on January 23, 2009, which were dismissed. *Ex parte Swearingen*, Nos. WR-53,613-08, 53,613-09 (Tex. Crim. App. Jan. 27, 2009)(not designated for publication).

The current applications, each raising one claim, were filed in the trial court on June 22, 2011, and July 11, 2011. We found that they met the requirements of Article 11.071, § 5, and we remanded them to the convicting court for resolution. On remand, the trial court conducted a live hearing, after which it entered findings of fact and conclusions of law recommending that relief be denied on applicant's claims. This Court has reviewed the record. We adopt the trial judge's findings and conclusions, with the exception of Findings (C)(10), (D)(11), (F)(4), and (F)(5). Based upon the trial court's findings and conclusions and our own review, the relief sought is denied.

IT IS SO ORDERED THIS THE 12<sup>TH</sup> DAY OF DECEMBER, 2012.

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