



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

NO. WR-55,850-02

EX PARTE ARTURO ELEAZAR DIAZ

**ON APPLICATION FOR POST-CONVICTION WRIT OF HABEAS CORPUS
AND MOTION FOR STAY OF EXECUTION
FROM CAUSE NO. CR-1464-99-G IN THE 370TH DISTRICT COURT
HIDALGO COUNTY**

***Per Curiam.* ALCALA, J., filed a concurring statement in which COCHRAN, J., joined. PRICE, J., filed a dissenting statement.**

ORDER

This is a subsequent application for a writ of habeas corpus filed pursuant to the provisions of Texas Code of Criminal Procedure Article 11.071, § 5.

In February 2000, a jury found applicant guilty of the offense of capital murder. The jury answered the special issues submitted pursuant to Texas Code of Criminal Procedure Article 37.071, and the trial court, accordingly, set applicant's punishment at death. This Court affirmed applicant's conviction and sentence on direct appeal. *Diaz v.*

State, No. AP-73,821 (Tex. Crim. App. Sept. 18, 2002)(not designated for publication).

Applicant filed his initial post-conviction application for a writ of habeas corpus in the convicting court on January 14, 2002. This Court denied applicant relief. *Ex parte Diaz*, No. WR-55,850-01 (Tex. Crim. App. June 18, 2003)(not designated for publication).

Applicant's first subsequent application was filed in the trial court on September 19, 2013.

Applicant raises two claims in his subsequent writ application: that his trial counsel failed to adequately advise him regarding the State's plea offer, and that trial counsel failed to investigate and present mitigating evidence. He further asserts that his initial habeas counsel was ineffective for failing to raise the issues in his initial writ application. After reviewing the application, this Court has determined that applicant has failed to meet the dictates of Article 11.071, § 5. Accordingly, we dismiss the application as an abuse of the writ without considering the merits of the claims, and we deny applicant's motion to stay his execution.

IT IS SO ORDERED THIS THE 23rd DAY OF SEPTEMBER, 2013.

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