



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

WR-56,818-01

EX PARTE JOEL ESCOBEDO

**ON APPLICATION FOR WRIT OF HABEAS CORPUS IN CAUSE
NO. 783728 IN THE 232ND DISTRICT COURT
HARRIS COUNTY**

Per Curiam.

ORDER AFTER REMAND

In February 1999, a jury found applicant guilty of the offense of capital murder. The jury answered the special issues submitted under Article 37.071 of the Texas Code of Criminal Procedure, and the trial court, accordingly, set punishment at death. This Court affirmed the conviction and sentence on direct appeal. *Escobedo v. State*, No. AP-73,450 (Tex. Crim. App. Feb. 13, 2002)(not designated for publication). Applicant filed his initial

writ application in the trial court in October 2000. While the trial court was considering that application, applicant filed a subsequent application in which he raised a claim that his execution was barred because he was mentally retarded. *See Atkins v. Virginia*, 536 U.S. 304 (2002). We determined that the claim met the requirements of Article 11.071, § 5, and remanded it to the trial court for consideration. *Ex parte Escobedo*, No. WR-56,818-01 (Tex. Crim. App. Sept. 10, 2003)(not designated for publication). The record was subsequently sent to this Court, the Court reviewed it, and, based upon the testimony of the State's expert witness, Dr. George Denkowski, we denied relief. *Ex parte Escobedo*, No. WR-56,818-01 (Tex. Crim. App. June 6, 2007)(not designated for publication).

Subsequently, in April 2011, Denkowski entered into a Settlement Agreement with the Texas State Board of Examiners of Psychologists, in which his license was "reprimanded." Pursuant to this Settlement Agreement, Denkowski agreed to not accept any engagement to perform forensic psychological services in the evaluation of subjects for mental retardation or intellectual disability in criminal proceedings. Applicant thereafter submitted a suggestion that this Court "reconsider on its own initiative" its denial of his *Atkins* claim in the subsequent writ application. On March 21, 2012, we exercised our authority to reconsider the subsequent writ application on our own initiative, and we remanded it to allow the trial court the opportunity to re-evaluate its initial findings, conclusions, and recommendation in light of the Denkowski Settlement Agreement. *Ex parte Escobedo*, No. WR-56,818-01 (Tex. Crim. App. March 21, 2012)(not designated for

publication).

On September 26, 2012, the trial court signed an order adopting the State's Amended Proposed Findings of Fact and Conclusions of Law which recommended that relief be denied. We have reviewed the record and the September 26, 2012 findings of fact and conclusions of law. Based upon the trial court's findings and conclusions and our own review, we deny relief.

IT IS SO ORDERED THIS THE 12th DAY OF JUNE, 2013.

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