



## IN THE COURT OF CRIMINAL APPEALS OF TEXAS

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NO. WR-69,724-02

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EX PARTE RAMON HERNANDEZ

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ON APPLICATION FOR POST-CONVICTION WRIT OF HABEAS CORPUS  
FROM CAUSE NO. 2002CR1613-W2 IN THE 175<sup>TH</sup> DISTRICT COURT  
BEXAR COUNTY

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*Per Curiam.* HERVEY, J., *not participating.*

### 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 October 2002, 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. *Hernandez v. State*, No. AP-74,451 (Tex. Crim. App. Mar. 23, 2005)(not designated for publication). Applicant filed

his initial post-conviction application for writ of habeas corpus in the convicting court on October 6, 2004. This Court denied applicant relief. *Ex parte Hernandez*, No. WR-69,724-01 (Tex. Crim. App. Sept. 10, 2008)(not designated for publication). This, applicant's first subsequent application, was filed in the trial court on November 14, 2012.

In his application, applicant appears to raise a single claim in which he essentially argues that his appellate attorney and initial habeas attorney were ineffective in their representation of him. However, what applicant claims is "new evidence" is not, in fact, new. 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.

IT IS SO ORDERED THIS THE 14<sup>th</sup> DAY OF NOVEMBER, 2012.

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