



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

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**NO. WR-70,832-02**

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**EX PARTE JEDIDIAH ISAAC MURPHY**

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**ON APPLICATION FOR WRIT OF HABEAS CORPUS  
CAUSE NO. W00-02424-M(B) IN THE 194<sup>TH</sup> JUDICIAL DISTRICT COURT  
DALLAS COUNTY**

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*Per curiam.*

**ORDER**

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

In June 2001, Applicant was convicted of the offense of capital murder. The jury answered the special issues submitted pursuant to Article 37.071, TEX. CODE CRIM. PROC., and the trial court, accordingly, set punishment at death. This Court affirmed Applicant's

conviction and sentence on direct appeal. *Murphy v. State*, 112 S.W.3d 592 (Tex. Crim. App. 2003). This Court denied relief on Applicant's initial post-conviction application for writ of habeas corpus. *Ex parte Murphy*, No. WR-70,832-01 (Tex. Crim. App. March 25, 2009)(not designated for publication). Applicant later filed this subsequent application. This Court dismissed the second and third claims in Applicant's subsequent writ application pursuant to Article 11.071, § 5 of the Texas Code of Criminal Procedure. *Ex parte Murphy*, No. WR-70,832-02 (Tex. Crim. App. October 6, 2010)(not designated for publication). This Court remanded Applicant's subsequent writ application to the trial court only with regard to the first claim in which Applicant alleged that the State suppressed evidence and presented false testimony. *Id.* This Court ordered the trial court to make findings of fact and conclusions of law regarding whether or not the factual basis of the first claim was ascertainable through the exercise of reasonable diligence on or before the date the initial application was filed. *Id.* If the trial court determined that the factual basis of the claim was not ascertainable through the exercise of reasonable diligence on or before the date the initial application was filed, then this Court directed the trial court to determine the merits of the claim. *Id.*

Following remand, the trial court held a hearing in February 2011. Following the hearing, the State filed proposed findings and conclusions recommending that the claim be either dismissed or denied. The trial court signed an order adopting the State's proposed findings and conclusions on May 10, 2011. Applicant filed proposed findings and

conclusions recommending that Applicant receive a new trial on punishment. The trial court signed an order recommending a new trial on punishment on May 12, 2011. Because the trial court has signed two conflicting orders, we again remand the application for the trial court to clarify whether it intends to recommend that the claim be dismissed, whether it intends to recommend that the claim be denied, or whether it intends to recommend that relief be granted. The trial court shall resolve the issues presented within 15 days of the date of this order. A supplemental transcript containing the trial court's findings of fact and conclusions of law shall be returned to this Court within 30 days of the date of this order.

IT IS SO ORDERED THIS THE 23<sup>RD</sup> DAY OF NOVEMBER, 2011.

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