



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

NO. WR-71,070-02

EX PARTE STEPHEN DALE BARBEE

**ON APPLICATION FOR WRIT OF HABEAS CORPUS IN CAUSE
NO. 1004856R IN THE 213TH JUDICIAL DISTRICT COURT
TARRANT COUNTY**

Per Curiam.

ORDER

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

In February 2006, a jury convicted applicant 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 punishment at death. This Court affirmed applicant's conviction and sentence on direct appeal. *Barbee v. State*, No. AP-75,359 (Tex. Crim. App. Dec. 10, 2008). On March 14, 2008, applicant filed his initial application for a

writ of habeas corpus pursuant to Article 11.071. We denied relief. *Ex parte Barbee*, No. WR-70,070-01 (Tex. Crim. App. Jan. 14, 2009).

Applicant presents twenty-one allegations in this subsequent application. In an order dated September 14, 2011, this Court remanded the application to the habeas court for consideration of the merits of applicant's second allegation. *Ex parte Barbee*, No. WR-70,070-02 (Tex. Crim. App. Sept 14, 2011). The habeas court subsequently held a hearing and entered findings of fact and conclusions of law. The trial court recommended that relief be denied.

This Court has reviewed the record with respect to the allegations made by applicant. We adopt the trial court's original findings and conclusions. Based upon the trial court's findings and conclusions and our own review with regard to allegation two, relief is denied. Allegations one and three through twenty-one do not satisfy the requirements of Article 11.071, Section 5. Therefore, we dismiss those allegations as an abuse of the writ.

IT IS SO ORDERED THIS THE 8th DAY OF MAY, 2013.

Do Not Publish