



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

NOS. WR-78,135-01 and WR-78,135-02

EX PARTE CHARLES VICTOR THOMPSON

**ON APPLICATIONS FOR WRITS OF HABEAS CORPUS
CAUSE NO. 782657 IN THE 262ND JUDICIAL DISTRICT COURT
HARRIS COUNTY**

Per curiam.

ORDER

These are post conviction applications for writs of habeas corpus filed pursuant to the provisions of Texas Code of Criminal Procedure article 11.071.

Applicant was convicted in April 1999 of capital murder committed on April 30, 1998. TEX. PENAL CODE ANN. § 19.03(a)(7). Based on the jury's answers to the special issues set forth in the Texas Code of Criminal Procedure, Article 37.071, sections 2(b) and

2(e), the trial court sentenced him to death. Art. 37.071, § 2(g).¹ This Court affirmed applicant's conviction on direct appeal but vacated the sentence and remanded the cause for a new hearing on punishment. *Thompson v. State*, 93 S.W.3d 16 (Tex. Crim. App. 2001). At the retrial on punishment, the jury answered the special issues as before, and applicant was again sentenced to death. We affirmed the sentence on direct appeal. *Thompson v. State*, No. AP-73,431, 2007 Tex. Crim. App. Unpub. LEXIS 320 (Tex. Crim. App. October 31, 2007).

Applicant filed an application for writ of habeas corpus following his first conviction and sentence, and he filed a second application following the retrial on punishment. He presents seventeen allegations in his first application and fourteen allegations in his second application. The trial court did not hold a live evidentiary hearing. As to all of these allegations, the trial judge entered findings of fact and conclusions of law and recommended that relief be denied.

This Court has reviewed the record with respect to the allegations made by applicant. We agree with the trial judge's recommendation and adopt the trial judge's findings and conclusions. We note that in Findings and Conclusions p.6, paragraph 26, on the first line, the phrase "at punishment" should be "at the guilt-innocence phase." In addition, although the trial court's findings and conclusions of law are correct, Allegations 1, 2, and 3 in the first application are not cognizable. *See Ex parte Chi*, 256 S.W.3d 702 (Tex. Crim. App.

¹ Unless otherwise indicated, all references to Articles are to the Texas Code of Criminal Procedure.

2008). Further, we need not address Allegation 17, which purports to incorporate claims previously raised on direct appeal. *See Ex parte Acosta*, 672 S.W.2d 470, 472 (Tex. Crim. App. 1984).

Allegations 2, 3, 4, 5, 7, 9, 10, and 11 in the second application should have been raised on direct appeal. *See Ex parte Banks*, 769 S.W.2d 539, 540 (Tex. Crim. App. 1989). We need not address Allegation 13, which purports to incorporate claims previously raised on direct appeal. Based upon the trial court's findings and conclusions and our own review of the record, relief is denied.

IT IS SO ORDERED THIS THE 17TH DAY OF APRIL, 2013.

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