



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

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**NO. WR-70,510-04**

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**EX PARTE JUAN EDWARD CASTILLO, Applicant**

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**ON APPLICATION FOR POST-CONVICTION WRIT OF HABEAS CORPUS  
IN CAUSE NO. 2004CR1461A-W2 IN THE 186<sup>TH</sup> JUDICIAL DISTRICT COURT  
BEXAR COUNTY**

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*Per curiam.* YEARY, J., not participating.

**ORDER**

We have before us a subsequent application for a writ of habeas corpus filed pursuant to the provisions of Texas Code of Criminal Procedure Article 11.071 § 5 and a motion to stay applicant's execution.<sup>1</sup>

In September 2005, a jury found applicant guilty of the 2003 capital murder of Tommy Garcia, Jr. The jury answered the special issues submitted pursuant to Texas

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<sup>1</sup> Unless otherwise indicated, all future references to Articles are to the Texas Code of Criminal Procedure.

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. *Castillo v. State*, 221 S.W.3d 689 (Tex. Crim. App. 2007).

Applicant raised four allegations in his initial application for a writ of habeas corpus, including allegations that: his trial counsel rendered ineffective assistance of counsel at voir dire, prior to trial, and at trial; his appellate counsel rendered ineffective assistance; and the trial court violated his right to self-representation and committed an abuse of discretion by allowing him to represent himself during the sentencing phase of trial. This Court adopted the trial court's findings of fact and conclusions of law, found that the claim regarding self-representation was procedurally barred, and otherwise denied relief on applicant's claims. *Ex parte Castillo*, No. WR-70,510-01 (Tex. Crim. App. Sept. 12, 2012)(not designated for publication).

On October 30, 2017, applicant filed the instant application in the trial court. This is applicant's first subsequent writ of habeas corpus application, and he raises a single claim in this application. Specifically, applicant claims that his conviction and sentence are based on false testimony and, therefore, violate his right to due process.

In December 2009, this Court held in *Ex parte Chabot* that the knowing or unknowing use of false or perjured testimony violates due process. *Chabot*, 300 S.W.3d 768 (Tex. Crim. App. 2009). Because applicant filed his initial (and only other) habeas application in the trial court prior to this Court's decision in *Chabot*, this decision

provides a new legal basis which was not available at the time applicant filed his last habeas application. Thus, we find that he has met the requirements of Article 11.071 § 5(a)(1), and his application is remanded to the trial court for resolution. Applicant's motion to stay his execution is granted.

IT IS SO ORDERED THIS THE 28<sup>th</sup> DAY OF NOVEMBER, 2017.

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