



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

NO. WR-75,835-01

EX PARTE HECTOR ROLANDO MEDINA

**ON APPLICATION FOR WRIT OF HABEAS CORPUS
CAUSE NO. W07-32923 IN THE 282ND DISTRICT COURT
DALLAS COUNTY**

Per curiam. KEASLER, J., filed a concurring opinion. KELLER, P.J., filed a dissenting opinion.

OPINION

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

Applicant was convicted in 2008 of capital murder committed in March 2007.

TEX. PENAL CODE ANN. § 19.03(a). 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 and sentence on direct appeal. *Medina v. State*, No. AP-76,036 (Tex. Crim. App. Jan. 12, 2011) (not designated for publication), *cert. denied*.

Applicant presented twenty-eight allegations in his application in which he challenges the validity of his conviction and sentence. The trial court held a live evidentiary hearing. As to all of these allegations, the trial judge entered findings of fact and conclusions of law. Except as to Allegation Four, the trial judge concluded that the allegations were without merit and recommended that relief be denied. These findings of fact and conclusions of law are supported by the record.

As to Allegation Four, the trial judge recommended that we grant relief in the form of a new punishment trial because trial counsel's deficient performance in failing to present any punishment-phase case on Applicant's behalf deprived Applicant of his right to a fair trial. The record supports the trial judge's recommendation. Accordingly, we accept the recommendation. We grant relief and remand the cause for a new punishment hearing.

Delivered: October 4, 2017

Publish

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