



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

NO. WR-63,081-03

EX PARTE ROBERT LESLIE ROBERSON, III, Applicant

**ON APPLICATION FOR POST-CONVICTION WRIT OF HABEAS CORPUS
AND MOTION TO STAY THE EXECUTION IN CAUSE NO. 26162
IN THE 3RD JUDICIAL DISTRICT COURT
ANDERSON COUNTY**

***Per curiam.* MEYERS, J., would deny the stay and dismiss the application.**

ORDER

This is 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.¹

In February 2003, a jury found applicant guilty of the offense of capital murder. The jury answered the special issues submitted pursuant to Article 37.071, and the trial court,

¹ Unless otherwise indicated all references to Articles refer to the Code of Criminal Procedure.

accordingly, set applicant's punishment at death.

This Court affirmed applicant's conviction and sentence on direct appeal. *Roberson v. State*, No. AP-74,671 (Tex. Crim. App. June 20, 2007)(not designated for publication). This Court denied relief on applicant's initial post-conviction application for a writ of habeas corpus. *Ex parte Roberson*, Nos. WR-63,081-01 and WR-63,081-02 (Tex. Crim. App. Sept. 16, 2009) (not designated for publication). On the same day, the Court dismissed as a subsequent application, a document titled "Notice of Desire to Raise Additional Habeas Corpus Claims." *Id.*

On June 8, 2016, applicant filed this application in the trial court. In this application, applicant asserts that (1) new scientific evidence establishes by a preponderance of the evidence under Article 11.073 that applicant would not have been convicted; (2) "[b]ecause the State relied on false, misleading, and scientifically invalid testimony," applicant's due process rights were violated under *Ex parte Chabot*, 300 S.W.3d 768 (Tex. Crim. App. 2009), and *Ex parte Chavez*, 371 S.W.3d 200 (Tex. Crim. App. 2012); (3) applicant is actually innocent of capital murder under *Herrera v. Collins*, 506 U.S. 390 (1993), and *Ex parte Elizondo*, 947 S.W.2d 202 (Tex. Crim. App. 1996); and (4) applicant "is entitled to habeas relief because his due process right to a fundamentally fair trial was violated by the State's introduction of false forensic science testimony that current science has exposed as false."

After reviewing applicant's application, we find that his claims satisfy the

requirements of Article 11.071 § 5. Accordingly, we remand those claims to the trial court for resolution. Applicant's motion to stay his execution is granted pending resolution of this application. Applicant's motion for leave to file appendices 1, 2, and 4 under seal is also granted.

IT IS SO ORDERED THIS THE 16th DAY OF JUNE, 2016.

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