

COURT OF CRIMINAL APPEALS OF TEXAS

Ex parte Jorge Gutierrez

Gutierrez · No. WR-83,072-01 · Decided April 24, 2015

SUMMARY

This document is Jorge Gutierrez's objections to the Travis County trial court's findings of fact and conclusions of law in a Texas post-conviction habeas proceeding. The objections argue that the trial court lacked jurisdiction to enter its findings after the habeas record was transferred to the Texas Court of Criminal Appeals and that the proceedings were improperly conducted without notice to applicant's counsel. The document also challenges findings concerning ineffective assistance of counsel, evidentiary issues, an erroneous jury instruction, and the constitutionality of the capital-murder punishment scheme.

CASE DETAILS

COURT	Court of Criminal Appeals of Texas
JURISDICTION	Texas
DECIDED	April 24, 2015
DOCKET	WR-83,072-01
DISPOSITION	other
PROCEDURAL POSTURE	Applicant filed objections to the trial court's findings of fact and conclusions of law in a pending state post-conviction habeas proceeding and requested that the Texas Court of Criminal Appeals reject the findings and conclusions or order a new trial.
PRECEDENTIAL VALUE	none
PARTIES	Jorge Gutierrez v. The State of Texas

TOPICS

- state post-conviction relief
- post-conviction relief
- ineffective assistance
- evidence
- appellate procedure

PRACTICE AREAS

- state post-conviction relief
- criminal procedure
- ineffective assistance
- evidence
- appellate procedure

KEY QUOTATIONS

“Now, you will also see in the charge only if you find the defendant not guilty of capital murder do you then even consider the offenses of murder. You have to go through that first, ladies and gentlemen. If you find him guilty of capital murder, you don't even consider those next two charges, okay, those next two paragraphs.”
(10 R.R. 22)

“I guess it didn't do any good to file a motion in limine because they keep using the word victim victim victim” (7 R.R. 175)

FACTUAL BACKGROUND

The filing concerns a capital-murder prosecution involving the fatal shootings of two people during an altercation outside a club. Gutierrez alleged that trial counsel was ineffective for failing to preserve evidentiary objections, impeach a key prosecution witness, challenge an erroneous jury instruction concerning consideration of lesser offenses, and challenge the statutory punishment scheme as applied to a claim of sudden passion.

PROCEDURAL HISTORY

Gutierrez filed an application for habeas corpus in the 167th District Court of Travis County on February 18, 2015. Because the trial court did not sign an order designating issues within the statutory period, the district clerk transmitted the record to the Court of Criminal Appeals on March 26, 2015, where it was docketed as WR-83,072-01. The trial court nevertheless adopted the State's proposed findings and conclusions on April 9, 2015, and Gutierrez filed objections asserting that the trial court lacked jurisdiction and that the findings inadequately addressed his claims.

DISPOSITION

other

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