

TEXAS COURT OF CRIMINAL APPEALS

Ex parte Clarence Curtis Jordan

Ex parte Jordan · No. WR-17,434-02 · Decided April 9, 2026

SUMMARY

The Texas Court of Criminal Appeals grants post-conviction habeas relief to Clarence Curtis Jordan on his claim that the 1983 punishment-phase jury instructions inadequately permitted consideration of mitigating mental and neurological health evidence under Penry v. Lynaugh. The court vacates his death sentence and remands for a new punishment proceeding. The court dismisses Jordan’s alternative Atkins intellectual-disability claim as waived for purposes of the proceeding.

CASE DETAILS

COURT	Texas Court of Criminal Appeals
WRITING FOR THE COURT	Per curiam
JURISDICTION	Texas Court of Criminal Appeals
DECIDED	April 9, 2026
DOCKET	WR-17,434-02
DISPOSITION	remanded
PROCEDURAL POSTURE	Applicant sought post-conviction habeas relief from a capital murder death sentence based on a Penry jury-instruction claim and, alternatively, an Atkins intellectual-disability claim.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Clarence Curtis Jordan v. State of Texas

TOPICS

- sentencing
- jury instructions
- habeas corpus
- state post-conviction relief
- constitutional law

PRACTICE AREAS

- criminal procedure
- capital sentencing
- post-conviction habeas corpus
- constitutional law
- jury instructions

QUESTIONS PRESENTED

1. Whether the 1983 punishment-phase jury instructions provided an adequate vehicle for the jury to consider and give effect to Jordan's mitigating evidence of mental and neurological impairment under

Penry v. Lynaugh and the Eighth Amendment.

2. Whether Jordan's alternative Atkins v. Virginia intellectual-disability claim should be considered in the present habeas proceeding.

HOLDINGS

1. The pre-Penry special issues did not provide an adequate vehicle for Jordan's jury to meaningfully consider and give effect to his evidence of paranoid schizophrenia and possible organic brain damage. The absence of a separate Penry-compliant mitigation instruction was harmful, so Jordan's death sentence could not stand.
2. Jordan waived his Atkins claim for purposes of this proceeding because he requested that the claim be pursued only if the court denied relief on his Penry claim or required further factual development, and the court granted immediate relief on the Penry claim without requiring additional fact finding.

KEY QUOTATIONS

"The mental and neurological health evidence that Applicant presented at his trial is the type of evidence that both the Supreme Court and this Court have come to regard as the kind of "two-edged" mitigating evidence calling for a separate, mitigation-focused jury instruction." (Jordan–7)

"For the reasons discussed above, we grant habeas relief on Applicant's Penry allegation (Claim One) and vacate his death sentence." (Jordan–8)

FACTUAL BACKGROUND

Jordan was convicted of capital murder for intentionally shooting Joe Williams while robbing or attempting to rob Williams and other employees of a Houston food market. At the 1983 punishment trial, Jordan presented evidence of paranoid schizophrenia and possible Organic Brain Syndrome involving organic brain damage. The jury received only deliberateness and future-dangerousness special issues, answered both affirmatively, and Jordan was sentenced to death.

PROCEDURAL HISTORY

Jordan was convicted of capital murder and sentenced to death in 1978. After the conviction and sentence were vacated on direct appeal because of an erroneously denied challenge for cause, he was retried, again convicted, and again sentenced to death; the Texas Court of Criminal Appeals affirmed. In 1988, the court found Jordan incompetent to be executed under Ford v. Wainwright and stayed his execution. In October 2025, Jordan filed the present habeas application, asserting that his 1983 punishment-phase jury instructions did not permit adequate consideration of mitigating evidence and alternatively asserting intellectual disability under Atkins. The court granted relief on the Penry claim, vacated the death sentence, remanded for a new punishment proceeding, and dismissed the Atkins claim as waived for purposes of the proceeding.

DISPOSITION

remanded

REMAND INSTRUCTIONS

Vacate the death sentence and remand Jordan to the custody of Harris County for a new punishment proceeding. The Atkins claim is dismissed as waived for purposes of this proceeding.

CASES CITED

- Penry v. Lynaugh, 492 U.S. 302 (1989)
- Atkins v. Virginia, 536 U.S. 304 (2002)
- Jordan v. State, 635 S.W.2d 522 (Tex. Crim. App. 1982)
- Jordan v. State, 707 S.W.2d 641 (Tex. Crim. App. 1986)
- Ford v. Wainwright, 477 U.S. 399 (1986)
- Tennard v. Dretke, 542 U.S. 274, 288 (2004)
- Smith v. Texas, 543 U.S. 37, 44 (2004)
- Abdul-Kabir v. Quarterman, 550 U.S. 233, 239–42 (2007)
- Brewer v. Quarterman, 550 U.S. 286, 296 (2007)
- Ex parte Hood, 304 S.W.3d 397, 400 (Tex. Crim. App. 2010)
- Ex parte Smith, 309 S.W.3d 53, 61–62 (Tex. Crim. App. 2010)
- Ex parte Moreno, 245 S.W.3d 419, 424–25 (Tex. Crim. App. 2008)
- Ex parte Martinez, 233 S.W.3d 319, 320 (Tex. Crim. App. 2008)
- Ex parte Hathorn, 296 S.W.3d 570, 572 (Tex. Crim. App. 2009)
- Olivas v. State, 202 S.W.3d 137, 145 (Tex. Crim. App. 2006)
- Almanza v. State, 686 S.W.2d 157, 171 (Tex. Crim. App. 1985) (op. on reh'g)
- Ex parte Jordan, 758 S.W. 250, 255 (1988)