

TEXAS COURT OF CRIMINAL APPEALS

Richard Vasquez, Jr.

Vasquez · No. WR-59,201-03 · Decided April 20, 2015

SUMMARY

This document is Richard Vasquez Jr.'s response to the State's motion to dismiss his subsequent application for a writ of habeas corpus and opposition to denial of a stay of execution. It argues that newly available scientific evidence concerning the cause of the victim's death supports relief under Texas Code of Criminal Procedure article 11.073 and warrants an evidentiary hearing before the scheduled execution.

CASE DETAILS

COURT	Texas Court of Criminal Appeals
JURISDICTION	Texas
DECIDED	April 20, 2015
DOCKET	WR-59,201-03
DISPOSITION	other
PROCEDURAL POSTURE	Applicant Richard Vasquez, Jr. filed a subsequent application for a writ of habeas corpus and a motion to stay his scheduled execution. The State moved to dismiss the application and opposed a stay; this document responds to that motion.
STANDARD OF REVIEW	The filing argues that dismissal at the pleading stage is inappropriate where the application alleges arguably relevant new scientific evidence and factual disputes requiring an evidentiary hearing. It states that ultimate relief under article 11.073 requires proof by a preponderance that the applicant would not have been convicted of capital murder had the new evidence been admitted.
PRECEDENTIAL VALUE	none
PARTIES	Richard Vasquez, Jr. v. State of Texas

TOPICS

state post-conviction relief

successive petitions

actual innocence

evidence

remedies

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the State's motion to dismiss should be denied because Vasquez's subsequent habeas application pleaded a prima facie claim under Texas Code of Criminal Procedure article 11.073 based on newly available scientific evidence.
2. Whether factual disputes concerning the scientific evidence and expert declarations require an evidentiary hearing in the trial court rather than dismissal on the pleadings.
3. Whether Vasquez should receive a stay of execution while the habeas claims are litigated.

KEY QUOTATIONS

“at this stage Mr. Vasquez need only allege that “there is arguably relevant scientific evidence that contradicts scientific evidence relied on by the state at trial, and that evidence was not available at trial . . . ,”” (7-8)

“Accordingly, for the reasons set out above, the State’s motion to dismiss should be denied, and Mr. Vasquez’s motion for a stay of execution should be granted.” (9)

FACTUAL BACKGROUND

The underlying conviction involved the death of Miranda Lopez, a child. Vasquez's application asserted that Lopez fell from a stool immediately before becoming comatose and that newly available scientific evidence could establish that the fall, rather than intentional abuse or multiple blows, caused the fatal injuries. The filing also relied on expert declarations concerning short falls, shaken infant syndrome, and second-impact syndrome to challenge the State's trial evidence regarding causation and mens rea.

PROCEDURAL HISTORY

The underlying capital-murder conviction arose in Nueces County District Court, trial court cause number 98-CR-0730-E. Vasquez filed a subsequent state habeas application alleging, among other grounds, newly available scientific evidence under Texas Code of Criminal Procedure article 11.073, a claim under *Ex parte Chabot*, and actual innocence. The filing asks the Court of Criminal Appeals to deny the State's motion to dismiss, grant a stay of execution, and remand the application to the trial court for an evidentiary hearing.

DISPOSITION

other

REMAND INSTRUCTIONS

The requested relief was remand of the habeas application to the 148th District Court of Nueces County for an evidentiary hearing. The document itself is an applicant's response and does not establish that the court actually entered that disposition.

CASES CITED

- Ex parte Chabot, 300 S.W.3d 768 (Tex. Crim. App. 2009)
- Ex parte Robbins, 2014 WL 6751684 (Tex. Crim. App. Nov. 26, 2014)
- Ex parte Chavez, 371 S.W.3d 200, 207 (Tex. Crim. App. 2012)

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