



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-75,105-02

EX PARTE RANDALL WAYNE MAYS, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS AND MOTION FOR
STAY OF EXECUTION IN CAUSE NO. B-15,717
IN THE 392ND JUDICIAL DISTRICT COURT
HENDERSON COUNTY**

Per curiam. **KELLER, P.J.**, dissents.

ORDER

We have before us a post-conviction application for a writ of habeas corpus filed pursuant to the provisions of Texas Code of Criminal Procedure article 11.071 and a motion for a stay of execution.

In May 2008, a jury found Applicant guilty of the May 2007 capital murder of a peace officer. The jury answered the special issues submitted pursuant to Article 37.071, and the trial court, accordingly, set Applicant's punishment at death. This Court affirmed

Applicant's conviction and sentence on direct appeal. *Mays v. State*, 318 S.W.3d 368 (Tex. Crim. App. 2010).

In his initial application for a writ of habeas corpus, Applicant raised nine claims, including a claim that the execution of a mentally ill person was not constitutionally permissible. After reviewing the merits of the claims, this Court denied relief. *Ex parte Mays*, No. WR-75,105-01 (Tex. Crim. App. March 16, 2011) (not designated for publication).

Applicant filed this his first subsequent writ application in the convicting court on April 27, 2020. Applicant raises four claims in his application in which he asserts that: he is intellectually disabled and, therefore, cannot constitutionally be executed; racial bias tainted his conviction and death sentence; his jury engaged in prejudicial misconduct; and he was improperly interrogated in violation of his constitutional rights.

We have reviewed the application and find that the first allegation of intellectual disability satisfies the threshold requirements of Article 11.071 § 5(a)(3). That claim is remanded to the trial court for a review on the merits. The remaining claims do not meet the requirements of Article 11.071 § 5 and should not be reviewed. Applicant's execution is stayed pending resolution of his application.

IT IS SO ORDERED THIS THE 7th DAY OF MAY, 2020.

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