



## IN THE COURT OF CRIMINAL APPEALS OF TEXAS

**NO. WR-59,939-03**

**EX PARTE TRACY LANE BEATTY, Applicant**

**ON APPLICATION FOR POST-CONVICTION WRIT OF HABEAS CORPUS IN  
CAUSE NO. 241-0978-04 IN THE 241<sup>ST</sup> JUDICIAL DISTRICT COURT  
SMITH COUNTY**

***Per curiam.* ALCALA, J., filed a concurring statement. KEASLER, J., not participating.**

### **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.<sup>1</sup>

In August 2004, 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, accordingly, set applicant's punishment at death.

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<sup>1</sup> Unless otherwise indicated all references to Articles refer to the Code of Criminal Procedure.

This Court affirmed applicant's conviction and sentence on direct appeal. *Beatty v. State*, No. AP-75,010 (Tex. Crim. App. Mar. 11, 2009)(not designated for publication).

This Court denied relief on applicant's initial post-conviction application for a writ of habeas corpus. *Ex parte Beatty*, No. WR-59,939-02 (Tex. Crim. App. May 6, 2009)(not designated for publication).<sup>2</sup>

On August 5, 2015, applicant filed in the trial court a subsequent application for a writ of habeas corpus. In the subsequent application, applicant asserts that he was denied the effective assistance of both trial and appellate counsel and that the State violated his due process rights "when it gave the jury a false impression that [the victim] withdrew her consent for [him] to enter their home." On August 11, 2015, this Court stayed applicant's execution.

After reviewing applicant's subsequent application, we find that he has failed to satisfy the requirements of Article 11.071 § 5. Accordingly, the application is dismissed as an abuse of the writ without reviewing the merits of the claims, and the stay of execution is lifted. Art. 11.071 § 5(c).

IT IS SO ORDERED THIS THE 14<sup>th</sup> DAY OF OCTOBER, 2015.

Do Not Publish

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<sup>2</sup> On August 6, 2004, applicant filed with this Court an application for an original writ of habeas corpus challenging two contempt orders. The Court denied him leave to file that application on October 27, 2004. *See Ex parte Beatty*, No. WR-59,939-01 (no written order issued).