



**IN THE COURT OF CRIMINAL APPEALS
OF TEXAS**

NO. WR-46,451-02

EX PARTE GREGORY E. WRIGHT

**ON APPLICATION FOR WRIT OF HABEAS CORPUS AND MOTION FOR
STAY OF EXECUTION FROM CAUSE NO. W97-01215-J(B)
IN THE CRIMINAL DISTRICT COURT NO. 3
DALLAS COUNTY**

***Per Curiam.* KELLER, P.J., KEASLER and HERVEY, JJ., concur.**

ORDER

This is a subsequent application for writ of habeas corpus filed pursuant to the provisions of Texas Code of Criminal Procedure Article 11.071, § 5, and a motion for stay of execution.

In December 1997, a jury found applicant guilty of capital murder. The jury answered the special issues submitted pursuant to Texas Code of Criminal Procedure 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. *Wright v. State*, 28 S.W.3d 526 (Tex. Crim. App. 2000). Applicant filed his initial post-conviction application for writ of habeas

corpus in the convicting court on July 28, 1999. In that application, applicant raised twenty-three claims, in which he challenged the constitutionality of Articles 11.071 and 37.071, claimed that he is actually innocent, and claimed that he received ineffective assistance of both trial and appellate counsel. This Court denied applicant relief. *Ex parte Wright*, No. WR-46,451-01 (Tex. Crim. App. Sept. 13, 2000)(not designated for publication).

Applicant filed the instant application in the trial court on August 20, 2008. He raises two claims in the application: (1) an actual innocence claim based upon newly discovered evidence; and (2) several “gateway” claims of constitutional violations. Because applicant has presented new evidence that has been discovered since the time of his initial writ application, we find that he has met the dictates of Article 11.071 § 5 with regard to the actual innocence claim raised in his first allegation. Therefore, we remand that allegation to the trial court to investigate the claim and develop the record. Although we do not pass upon whether applicant’s second allegation of various “gateway” claims meets the dictates of Section 5, we have determined that the trial court may consider those “gateway” claims as appropriate in relation to its review of the actual innocence recantation claim. In light of the trial judge’s order modifying the execution date, we deny applicant’s stay of execution.

IT IS SO ORDERED THIS THE 9TH DAY OF SEPTEMBER, 2008.

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