



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

NO. WR-63,624-02

EX PARTE IVAN ABNER CANTU, Applicant

**ON APPLICATION FOR WRIT OF HABEAS CORPUS
IN CAUSE NO. 380-80047 IN THE 380TH JUDICIAL DISTRICT COURT
COLLIN COUNTY**

Per curiam.

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, § 5.¹

In October 2001, a jury convicted Applicant of the offense of capital murder for: (1) murdering his cousin, James Mosqueda, in the course of committing or attempting to commit robbery; and (2) murdering Mosqueda and Mosqueda's fiancée, Amy Kitchens, in the same

¹ Unless we specify otherwise, all references in this order to "Articles" refer to the Texas Code of Criminal Procedure.

criminal transaction. TEX. PENAL CODE 19.03(a)(2) & (a)(7). The jury answered the special issues submitted under Article 37.071 of the Texas Code of Criminal Procedure, and the trial court, accordingly, set punishment at death. This Court affirmed Applicant's conviction and sentence on direct appeal, *Cantu v. State*, No. AP-74,220 (Tex. Crim. App. June 30, 2004) (not designated for publication), and denied relief on his initial Article 11.071 application for a writ of habeas corpus, *Ex parte Cantu*, No. WR-63,624-01 (Tex. Crim. App. Jan. 18, 2006) (not designated for publication). We received this, Applicant's first subsequent application for a writ of habeas corpus, on April 19, 2023.

Applicant presents two allegations in his subsequent application. In Claim 1, Applicant alleges that two of the State's witnesses at trial, Amy Boettcher and Jeff Boettcher, gave materially false testimony in violation of *Ex parte Chabot*, 300 S.W.3d 768 (Tex. Crim. App. 2009), and the Fourteenth Amendment's Due Process Clause. In Claim 2, Applicant alleges that the State violated *Brady v. Maryland*, 373 U.S. 83 (1963), and the Due Process Clause by suppressing evidence that could have been used to impeach Amy Boettcher's trial testimony.

We have reviewed the subsequent application and find that Applicant has failed to make a prima facie showing that he satisfies the requirements of Article 11.071, § 5(a). Accordingly, we dismiss the subsequent application as an abuse of the writ without considering the merits of the claims.

IT IS SO ORDERED THIS THE 23rd DAY OF AUGUST, 2023.

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