



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-84,320-02

EX PARTE KIMBERLY CARGILL, Applicant

ON APPLICATION FOR WRIT OF HABEAS CORPUS
CAUSE NO. 241-1510-10-B IN THE 241ST DISTRICT COURT
SMITH 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 May 2012, a jury convicted Applicant of capital murder for intentionally causing Cherry Walker's death in the course of committing or attempting to commit the offense of retaliation. *See* TEX. PENAL CODE § 19.03(a). The jury answered the special issues submitted under Article 37.071 and the trial court, accordingly, set punishment at death. This

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

Court affirmed Applicant's conviction and sentence on direct appeal and denied her initial Article 11.071 writ application. *Cargill v. State*, No. AP-76,819 (Tex. Crim. App. Nov. 19, 2014) (not designated for publication); *Ex parte Cargill*, No. WR-84,320-01 (Tex. Crim. App. Apr. 26, 2017) (not designated for publication). This Court received Applicant's subsequent post-conviction application for a writ of habeas corpus on February 28, 2020.

Applicant presents two allegations in the instant subsequent application. In Claim One, Applicant contends that "trial counsel's failure to investigate and present evidence of [Applicant's] mental health deprived her of her right to effective assistance of counsel at the guilt phase of trial." In Claim Two, Applicant alleges that she "was denied effective assistance of counsel at the sentencing phase of trial."

We have reviewed the subsequent application and find that Applicant has failed to satisfy 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 17th DAY OF JUNE, 2020.

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