



## IN THE COURT OF CRIMINAL APPEALS OF TEXAS

**NO. WR-89,810-01**

**EX PARTE FIDEL FLORES, Applicant**

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS  
CAUSE NO. 1454998-A IN THE 230TH DISTRICT COURT  
FROM HARRIS COUNTY**

*Per curiam.* NEWELL and WALKER, JJ. dissent.

### **ORDER**

Applicant was convicted of super aggravated sexual assault of a child under six and sentenced to forty-five years' imprisonment. The Fourteenth Court of Appeals affirmed his conviction. *Flores v. State*, 513 S.W.3d 146 (Tex. App.—Houston [14th Dist.] Nov. 29, 2016, pet. ref'd.). Applicant filed this application for a writ of habeas corpus in the county of conviction, and the district clerk forwarded it to this Court. *See* TEX. CODE CRIM. PROC. art. 11.07.

Applicant contends that trial counsel was ineffective because counsel did not object to the jury instructions which did not require an unanimous verdict. The trial court determined that trial counsel's performance was deficient and that Applicant was prejudiced. However, the trial court

analyzed the case under the appellate standard of review for jury charge issues rather than the *Strickland* standard, which focuses on harm at trial.

Based on the Court's review of the record, this Court finds that Applicant has not satisfied the prejudice component of his ineffective assistance of trial counsel claim. *Strickland v. Washington*, 466 U.S. 668 (1984). Therefore, we deny relief.

Delivered: June 24, 2020  
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