



## IN THE COURT OF CRIMINAL APPEALS OF TEXAS

**NO. WR-53,499-02**

**EX PARTE LARRY EDGAR ESTRADA, Applicant**

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS IN CAUSE  
NO. 746585 IN THE 262<sup>ND</sup> JUDICIAL DISTRICT COURT  
HARRIS COUNTY**

*Per curiam.*

### **ORDER**

We have before us a post-conviction application for a writ of habeas corpus filed pursuant to the provisions of Texas Code of Criminal Procedure article 11.071.

In February 1998, a jury found Applicant guilty 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. This Court affirmed Applicant's conviction and sentence on direct appeal and denied his initial application for a writ of habeas corpus pursuant to Article 11.071. *Estrada v. State*, No. AP-73,054, slip op.

(Tex. Crim. App. Sept. 15, 1999) (not designated for publication); *Ex parte Estrada*, No. WR-53,499-01 (Tex. Crim. App. Oct. 9, 2002) (not designated for publication).

Applicant filed his subsequent writ application in the trial court on December 12, 2019. He raises two claims in his application. In his first claim, Applicant alleges that his execution would violate the Eighth and Fourteenth Amendments because he is intellectually disabled under *Atkins v. Virginia*, 536 U.S. 304 (2002). In his second claim, Applicant asserts that his death sentence violates due process because the State withheld material evidence in violation of *Brady v. Maryland*, 373 U.S. (1963).

We have reviewed the application and find that Applicant's first claim, alleging an *Atkins* violation, satisfies the threshold requirements of Article 11.071 § 5(a)(1). That claim is remanded to the trial court for a review on the merits. The remaining claim does not meet Article 11.071 § 5's requirements and should not be reviewed.

IT IS SO ORDERED THIS THE 1<sup>st</sup> DAY OF JULY, 2020.

Do not publish