



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

NOS. WR-41,168-10 and AP-75,370

EX PARTE CHARLES DEAN HOOD

**ON APPLICANT'S MOTION TO RECUSE, APPLICATION FOR WRIT OF
HABEAS CORPUS, SUGGESTION THAT THE COURT RECONSIDER ON ITS
OWN MOTION ITS JANUARY 10, 2007, OPINION DISMISSING APPLICANT'S
SECOND SUBSEQUENT APPLICATION, AND MOTION FOR STAY OF
EXECUTION IN CAUSE NO. W296-80233-90 IN THE 296TH DISTRICT COURT
OF COLLIN COUNTY**

Per Curiam. KELLER, P.J., and KEASLER and HERVEY, JJ., dissent to the reconsideration of our January 10, 2007, opinion and to the grant of the stay of execution. PRICE, J., recuses himself in Cause No. WR-41,168-01, and does not participate in Cause No. AP-75,370.

ORDER

We have four matters before us: (1) a motion to recuse the eight judges who served on the Court with the Honorable Verla Sue Holland; (2) a subsequent application for writ of habeas corpus filed pursuant to Article 11.071, § 5; (3) a suggestion that the

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Court reconsider, on its own motion, its January 10, 2007, opinion dismissing applicant's second subsequent application; and (4) various motions for a stay of execution.

Applicant was convicted of the capital murder of Ronald Williamson and Tracie Lynn Wallace. The jury answered the special issues in such a manner that a sentence of death was imposed on September 7, 1990. This Court affirmed the conviction and sentence on direct appeal. *Hood v. State*, No. AP-71,167 (Tex. Crim. App. November 24, 1993)(not designated for publication). Applicant's initial application for writ of habeas corpus was denied. *Ex parte Hood*, No. WR-41,168-01 (Tex. Crim. App. April 21, 1999)(not designated for publication). Applicant filed a subsequent application in the trial court on May 24, 2004. The subsequent application was dismissed. *Ex parte Hood*, No. WR-41,168-02 (Tex. Crim. App. April 13, 2005)(not designated for publication). Applicant filed a second subsequent application on June 22, 2005. We remanded to the convicting court for resolution of the claim. When the case was returned to this Court we held that applicant had, in fact, not met the requirements of Article 11.071, § 5, for consideration of subsequent claims and dismissed his application. *Ex parte Hood*, 211 S.W.3d 767 (Tex. Crim. App. 2007). It is this case that is the subject of applicant's suggestion for reconsideration.

On April 16, 2008, the judge of the convicting court set applicant's execution date for June 17, 2008. On June 12, 2008, applicant filed another subsequent application for writ of habeas corpus and an original application for writ of habeas corpus. In the

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applications, applicant asserted that he was denied a fair trial because of an alleged relationship between the trial judge and the prosecutor that applicant claimed was "common knowledge" at the time of trial. We dismissed the Article 11.071 application and denied leave to file the original application. *Ex parte Hood*, Nos. WR-41,168-04 & WR-41,168-05 (Tex. Crim. App. June 16, 2008)(not designated for publication). On June 17, 2008, this Court denied a second original application for writ of habeas corpus. *Ex parte Hood*, No. WR-41,168-06 (Tex. Crim. App. June 17, 2008)(not designated for publication). However, by the time all of the litigation was complete, applicant's warrant of execution was close to expiring, and the Texas Department of Criminal Justice was unable to complete its duties. Applicant's execution date was reset to September 10, 2008. On August 20, 2008, the clerk of the 296th District Court forwarded a subsequent writ application to this Court as required by Article 11.071, § 5(b). This Court dismissed the application. *Ex parte Hood*, No. WR-41,168-09 (Tex. Crim. App. Sept. 5, 2008).

On September 8, 2008, this Court received the matters currently before it. The Court denies applicant's motion to recuse the eight members of the Court who served with the Honorable Verla Sue Holland.

Applicant raises two claims in his subsequent application. He asserts that he was denied a fair trial because of an alleged relationship between the trial judge and the prosecutor, and he claims that his execution will twice put his life in jeopardy. We have reviewed the two claims raised and find that they do not meet the requirements of Article

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11.071, § 5, for the consideration of subsequent claims. Therefore, the application is dismissed as an abuse of the writ.

Because of developments in the law regarding nullification instructions, this Court has determined that it would be prudent to reconsider the decision we issued in dismissing applicant's second subsequent writ application. *See Ex parte Hood*, 211 S.W.3d 767 (Tex. Crim. App. 2007)(No. AP-75,370). Accordingly, we grant his motion to stay his execution so that we may accomplish this task.

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

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