IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. AP-75,933

EX PARTE FRANK GARCIA HERNANDEZ, JR., Applicant

ON APPLICATION FOR A WRIT OF HABEAS CORPUS IN CAUSE NO. 22048-02-A IN THE 47TH DISTRICT COURT POTTER COUNTY

KEASLER, J., filed a concurring opinion.

CONCURRING OPINION

I join the Court's opinion, but write separately to note that today's opinion is entirely consistent with our decision in *Ex parte Foster*,[1] which was issued in May 2007.

FILED: January 28, 2009
PUBLISH

[1] Nos. WR-36,242-02 & -03 (Tex. Crim. App. May 9, 2007) (per curiam) (not designated for publication).