



## IN THE COURT OF CRIMINAL APPEALS OF TEXAS

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NO. WR-37,109-03

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**EX PARTE LEON COLLINS, JR., Applicant**

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**ON APPLICATION FOR A WRIT OF HABEAS CORPUS  
CAUSE NO. 90-03846-W IN THE 363<sup>RD</sup> DISTRICT COURT  
FROM DALLAS COUNTY**

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*Per curiam.*

### ORDER

Pursuant to the provisions of Article 11.07 of the Texas Code of Criminal Procedure, the clerk of the trial court transmitted to this Court this application for writ of habeas corpus. *Ex parte Young*, 418 S.W.2d 824, 826 (Tex. Crim. App. 1967). Applicant was convicted of burglary of a habitation and sentenced to thirty-seven years' imprisonment. The Fifth Court of Appeals affirmed his conviction. *Collins v. State*, No. 05-90-01326-CR (Tex. App.–Dallas, November 8, 1991).

Applicant contends that his trial counsel rendered ineffective assistance by failing to object to extraneous evidence testimony, by failing to challenge the bias of the trial judge, by failing to request a limiting instruction for the offered extraneous evidence testimony, and by failing to request an accomplice witness instruction. He also alleges that appellate counsel was ineffective because

he also represented Applicant at trial and failed to raise valid appellate issues because of his ineffectiveness at trial.

Applicant has alleged facts that, if true, might entitle him to relief. *Strickland v. Washington*, 466 U.S. 668 (1984); *Ex parte Lemke*, 13 S.W.3d 791,795-96 (Tex. Crim. App. 2000). In these circumstances, additional facts are needed. As we held in *Ex parte Rodriguez*, 334 S.W.2d 294, 294 (Tex. Crim. App. 1960), the trial court is the appropriate forum for findings of fact. The trial court shall obtain a response from Applicant's trial counsel regarding Applicant's claims of ineffective assistance of counsel. The trial court may use any means set out in TEX. CODE CRIM. PROC. art. 11.07, § 3(d).

If the trial court elects to hold a hearing, it shall determine whether Applicant is indigent. If Applicant is indigent and wishes to be represented by counsel, the trial court shall appoint an attorney to represent Applicant at the hearing. TEX. CODE CRIM. PROC. art. 26.04.

The trial court shall make findings of fact as to whether the performance of Applicant's trial attorney was deficient and, if so, whether counsel's deficient performance prejudiced Applicant. The trial court shall also make any other findings of fact and conclusions of law that it deems relevant and appropriate to the disposition of Applicant's claim for habeas corpus relief.

This application will be held in abeyance until the trial court has resolved the fact issues. The issues shall be resolved within 90 days of this order. If any continuances are granted, a copy of the order granting the continuance shall be sent to this Court. A supplemental transcript containing all affidavits and interrogatories or the transcription of the court reporter's notes from any hearing or deposition, along with the trial court's supplemental findings of fact and conclusions of law, shall

be returned to this Court within 120 days of the date of this order. Any extensions of time shall be obtained from this Court.

Filed: February 1, 2012  
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