



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

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**NO. WR-65,784-02**

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**EX PARTE JOHN ALLEN RUBIO**

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**ON MOTION FOR EXTENSION OF TIME TO FILE APPLICATION  
FOR WRIT OF HABEAS CORPUS IN CAUSE NO. 03-CR-457-B  
IN THE 138<sup>TH</sup> JUDICIAL DISTRICT COURT  
CAMERON COUNTY**

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*Per Curiam.*

**ORDER**

This case is before us because no application for writ of habeas corpus was timely filed pursuant to the provisions of Texas Code of Criminal Procedure Article 11.071, and applicant has requested more time under Article 11.071, § 4A.<sup>1</sup>

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<sup>1</sup> Unless otherwise indicated all references to Articles refer to the Code of Criminal Procedure.

In August 2010, the trial court appointed David A. Schulman to represent applicant in a post-conviction writ of habeas corpus under Article 11.071. Pursuant to Article 11.071, § 4(a), applicant's application for writ of habeas corpus was originally due in the convicting court on or before December 27, 2011.

When this matter was initially brought to this Court's attention, it was discovered that, despite counsel's efforts, the trial court did not timely rule on his motion for extension or various motions for experts. This Court reviewed the case under Article 11.071, § 4A, found that counsel had shown good cause, allowed counsel to continue, and reset the due date to 180 days after the date the order issued. This made the writ application due to be filed in the trial court on or before March 25, 2013.

Because difficulties regarding getting pleadings before the trial judge in a timely manner, and getting rulings on those pleadings continued, applicant filed with this Court a second motion for an extension under Article 11.071 § 4A. This Court determined that applicant had again showed good cause and granted him 90 days to finish the investigation and file an application for a writ of habeas corpus.

Now applicant presents this Court with a third request for additional time under Article 11.071 § 4A. We find that counsel's showing in the affidavit submitted in support of this request, which affidavit shall remain sealed in this Court's record, fails to show good cause for this third request. Counsel has 30 days from the date of this order to file an application in the trial court on applicant's behalf or risk a ruling of contempt. *See* Article

11.071, § 4A. No extensions of this time will be entertained.

IT IS SO ORDERED THIS THE 11<sup>TH</sup> DAY OF SEPTEMBER, 2013.

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