



## IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-67,277-04

**EX PARTE GEORGE DANIEL GRANT, Applicant**

ON APPLICATION FOR A WRIT OF HABEAS CORPUS  
CAUSE NO. F-93-41138-J IN THE CRIMINAL DISTRICT COURT NO. 3  
FROM DALLAS COUNTY

*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 aggravated sexual assault of a child and was sentenced to forty years' imprisonment. The conviction and sentence were affirmed on direct appeal in an unpublished opinion. *Grant v. State*, No. 05-08-01260-CR (Tex. App.–Dallas del. Aug. 20, 2010).

Applicant raises numerous claims, including ineffective assistance complaints of trial and appellate counsel. In his claims, 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). The trial court entered a timely ODI, but the district clerk was authorized to forward the writ application to this Court before any affidavits were obtained, findings made, or issues resolved. 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 affidavits from Applicant's trial counsel and his appellate counsel responding to the ineffective assistance of counsel claims and explaining applicable trial or appellate strategy and tactical decisions. In addition to obtaining these affidavits, the trial court may use any means set out in TEX. CODE CRIM. PROC. art. 11.07, § 3(d) to resolve disputed issues of fact. In the appropriate case, the trial court may rely on its personal recollection. *Id.* 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 counsel and his appellate counsel was deficient and, if so, whether the deficient performance prejudiced Applicant. The trial court shall also make findings on

Applicant's remaining claims and may make any other findings of fact 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, 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: April 18, 2012  
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