



## IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-73,723-04

EX PARTE LLEWELLYN SCOTT, Applicant

ON APPLICATION FOR A WRIT OF HABEAS CORPUS  
CAUSE NO. 16193 IN THE 329<sup>TH</sup> DISTRICT COURT  
FROM WHARTON 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 two counts of possession of a controlled substance and one count of tampering with evidence and sentenced to seventy-five years' imprisonment for each count. The Thirteenth Court of Appeals affirmed his convictions. *Scott v. State*, No. 13-08-315-CR (Tex. App.—Corpus Christi, August 17, 2009).

Applicant contends, *inter alia*, that his trial counsel rendered ineffective assistance by failing to investigate, failing to object, failing to request a jury instruction, and failing to present evidence.

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 his claim 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: April 25, 2012  
Do not publish