



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-76,207-01

EX PARTE ALEX PLASENCIO, JR., Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 13641-0002 IN THE 242ND DISTRICT COURT
FROM HALE 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 a writ of habeas corpus. *Ex parte Young*, 418 S.W.2d 824, 826 (Tex. Crim. App. 1967). Applicant was convicted of driving while intoxicated and sentenced to twenty-five years' imprisonment. The Seventh Court of Appeals affirmed his conviction. *Plasencio v. State*, No. 07-00-00385-CR (Tex. App.—Amarillo Dec. 21, 2001, pet. ref'd).

Applicant contends that the waiver of his final revocation hearing was involuntary because his parole officer told him that if he pleaded guilty to pending criminal charges in Potter County, he would "be on the streets by Friday." On August 24, 2011, we remanded this application and directed

the trial court to order the Texas Department of Criminal Justice's Office of the General Counsel to obtain a response from Applicant's parole officer. On remand, after obtaining affidavits from Gil Reeves, Applicant's parole officer, and Christina Propes at the Texas Department of Criminal Justice-Parole Division, the trial court made findings of fact and conclusions of law and recommended that we deny relief. On January 11, 2012, we adopted the trial court's findings and conclusions and denied relief.

On January 10 and February 29, 2012, we received motions from Applicant urging us to remand his application and to reconsider our January 11 denial. In both motions, Applicant said he was not served with either the trial court's findings and conclusions or Reeves's and Propes's affidavits, though Applicant noted that he had seen the findings and conclusions. Applicant also said he wanted to contest the affidavits and submit his own proposed findings and conclusions.

We now reconsider and withdraw our previous denial on our own motion and remand this application to the trial court for further findings of fact and conclusions of law. TEX. R. APP. P. 79.2(d). The trial court shall determine whether the Hale County District Clerk mailed or delivered to Applicant the trial court's findings and conclusions and Reeves's and Propes's affidavits. If the trial court finds that the District Clerk did not, it shall order her to do so and give Applicant the opportunity to respond to the affidavits and submit his own proposed findings and conclusions. If Applicant files a response or his own proposed findings and conclusions, the trial court shall make further findings and conclusions on Applicant's original claim.

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 18, 2012

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