



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-76,856-01

EX PARTE RICKY GILMORE, SR., Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 09CR-076 IN THE 349TH DISTRICT COURT
FROM HOUSTON 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 possession with intent to deliver a controlled substance and sentenced to seventy-five years' imprisonment. The Sixth Court of Appeals affirmed his conviction. *Gilmore v. State*, No. 06-09-00233-CR (Tex. App.—Texarkana Aug. 12, 2010, pet. ref'd).

Applicant contends, among other things, that he was denied retained counsel of choice. Applicant has alleged facts that, if true, might entitle him to relief. *United States v. Gonzalez-Lopez*, 548 U.S. 140 (2006). 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 make findings of fact and conclusions of law as to whether Applicant was denied his right to retained counsel of choice and, if so, why. The trial court shall determine whether such a denial, if any, violated the Sixth Amendment. 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: January 25, 2012
Do not publish