



## IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-77,143-01

EX PARTE ROMAN URBANO, Applicant

ON APPLICATION FOR A WRIT OF HABEAS CORPUS  
CAUSE NO. 2007CR8438 IN THE 144<sup>TH</sup> DISTRICT COURT  
FROM BEXAR 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 possession with intent to deliver a controlled substance and sentenced to eighteen years' imprisonment. He did not appeal his conviction.

Applicant contends that his plea was involuntary because it was based on incorrect legal advice and because the plea agreement cannot be followed.

Applicant has alleged facts that, if true, might entitle him to relief. *Strickland v. Washington*, 466 U.S. 608 (1984); *Ex parte Moody*, 991 S.W.2d 856, 857-858 (Tex. Crim. App. 1999); *Ex parte*

*Huerta*, 692 S.W.2d 681 (Tex. Crim. App. 1985). In these circumstances, additional facts are needed. As we held in *Ex parte Rodriguez*, 334 S.W.2d 294, 294 (Tex. Crim. App. 1997), the trial court is the appropriate forum for findings of fact. The trial court shall obtain a response from Applicant's counsel addressing the allegations raised in the writ application. 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 Applicant pleaded guilty pursuant to an agreement that this sentence would run concurrently with a federal sentence. The trial court shall make findings of fact as to whether the judgment lists any federal cause numbers with which the instant cause was to run concurrent. The trial court shall also make specific findings as to whether counsel advised Applicant that the instant sentence would run concurrently with a federal sentence that had been imposed prior to sentencing in this case.

The trial court shall determine whether the sentence for the instant conviction is running concurrently with Applicant's federal sentence. The trial court shall determine whether Applicant is currently in the custody of the Texas Department of Criminal Justice or the Federal Bureau of Prisons. The trial court shall order the Texas Department of Criminal Justice's Office of the General Counsel to file an affidavit stating whether Applicant is in their custody and detailing whether he is currently being credited for any time spent for this cause, and what his current projected dates of release are, if any. The trial court shall also obtain a response from the Federal Bureau of Prisons detailing whether Applicant is in federal custody and, if so, any projected release dates from federal

custody. If Applicant has been in federal custody, the trial court shall also determine whether his sentence has been credited with time spent in custody of the State of Texas. 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 claims 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: March 28, 2012  
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