



## IN THE COURT OF CRIMINAL APPEALS OF TEXAS

**NO. WR-77,363-01**

**EX PARTE STEVEN DOUGLAS FREEMAN, Applicant**

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS  
CAUSE NO. 2007-297-C2 IN THE 19<sup>TH</sup> DISTRICT COURT  
FROM MCLENNAN 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 driving while intoxicated and sentenced to forty years' imprisonment. The Tenth Court of Appeals affirmed his conviction. *Freeman v. State*, 276 S.W.3d 630 (Tex. App.—Waco, 2008). This Court reversed and remanded the cause. *Freeman v. State*, 286 S.W.3d 370 (Tex. Crim. App. 2009). The Tenth Court of Appeals then re-affirmed his conviction. *Freeman v. State*, No. 10-07-00363-CR (Tex. App.—Waco, January 20, 2010).

Applicant contends, *inter alia*, that his trial counsel rendered ineffective assistance because

he failed to challenge a juror for cause. He alleges that the juror was biased and ultimately served on the jury, which harmed his defense.

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 Applicant's 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 determine whether the venire person referenced by Applicant actually served on his jury. If so, the trial court shall determine whether the venire person made statements during voir dire which could have subjected her to a challenge for cause by defense counsel. If so, the trial court shall determine whether defense counsel's failure to challenge for cause harmed Applicant's defense. 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  
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