



**IN THE COURT OF CRIMINAL APPEALS
OF TEXAS**

NO. WR-77,382-02

EX PARTE CHARLES WILLIAMS, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 07-393 IN THE 130TH DISTRICT COURT
FROM MATAGORDA 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 of a controlled substance in a drug free zone. He was sentenced to five years' imprisonment after his community supervision was revoked. He did not appeal his conviction.

Applicant contends that his plea was involuntary because he was not appointed counsel before waiving a jury and pleading guilty. The habeas record does not contain a written waiver of

counsel executed by Applicant. Applicant has alleged facts that, if true, might entitle him to relief. *Gideon v. Wainwright*, 372 U.S. 335 (1963); *Oliver v. State*, 872 S.W.2d 713, 715-16 (Tex. Crim. App. 1994); TEX. CODE CRIM. PROC. arts. 1.05, 1.051. 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 may use any means set out in TEX. CODE CRIM. PROC. art. 11.07, § 3(d). In the appropriate case, the trial court may rely on its personal recollection. *Id.*

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 and conclusions of law in regard to Applicant's claim that his plea was involuntary. The trial court shall make specific findings addressing whether Applicant waived counsel in writing and, if he did, whether that waiver was voluntary. 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 and any

plea papers executed by Applicant in this cause, 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: May 9, 2012

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