



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-77,658-01

EX PARTE LUIS MANUEL RODRIGUEZ, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 29656-C IN THE 251ST DISTRICT COURT
FROM POTTER 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 of a controlled substance and sentenced to twenty years' imprisonment. He did not appeal his conviction.

Applicant contends that the Texas Department of Criminal Justice (TDCJ) lodged a detainer while he was in federal custody and that he has not been credited with this time. Applicant has alleged facts that, if true, might entitle him to relief. *Ex parte Bynum*, 772 S.W.2d 113, 114 (Tex. Crim. App. 1989). 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 order the Office of the General Counsel at TDCJ to file an affidavit in response to Applicant's claim.

The trial court may also order depositions, interrogatories or a hearing. 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 him at the hearing. TEX. CODE CRIM. PROC. art. 26.04.

The trial court shall make findings of fact and conclusions of law as to whether Applicant is being denied time on his sentence. 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. 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: June 6, 2012

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