



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-78,277-01

EX PARTE MATTHEW ARTHUR, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 114-2515-06 IN THE 114TH DISTRICT COURT
FROM SMITH 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 injury to a child and sentenced to fifteen years' imprisonment. He did not appeal his conviction.

Applicant contends, among other things, that although he was indigent and the trial court did not determine whether he had the financial resources to pay \$491.00 in court costs, he was ordered to pay these costs.

Applicant has alleged facts that, if true, might entitle him to relief. *Mayer v. State*, 309 S.W.3d 552 (Tex. Crim. App. 2010). 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 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 him at the hearing. TEX. CODE CRIM. PROC. art. 26.04.

The trial court shall make further findings of fact as to whether: (1) Applicant was indigent and had been appointed counsel; (2) the \$491.00 in court costs also included costs of legal services; and (3) if so, the trial court made a determination before assessing the costs of legal services that Applicant had the financial resources to offset them in part or whole. TEX. CODE CRIM. PROC. arts. 26.05(g). 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 forwarded to this Court within 120 days of the date of this order. Any extensions of time shall be obtained from this Court.

Filed: September 26, 2012
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