



## IN THE COURT OF CRIMINAL APPEALS OF TEXAS

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NO. WR-78,529-01

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**EX PARTE ROBERT WAYNE WHITE, Applicant**

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**ON APPLICATION FOR A WRIT OF HABEAS CORPUS  
CAUSE NO. 30,545-B IN THE 124TH DISTRICT COURT  
FROM GREGG COUNTY**

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*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 burglary of a habitation and was sentenced to eight years' imprisonment.

Applicant contends that he is being denied credit for time spent incarcerated under a pre-revocation (a/k/a blue) warrant. An inmate is entitled to time spent in confinement under a blue warrant. *Ex parte Canada*, 754 S.W.2d 660, 668 (Tex.Crim.App. 1988). The trial court and the State agree that Applicant is entitled to 89 days of credit (from 09/03/2006 to 11/30/2006). However, there is no response in the writ record from TDCJ or the Parole Division regarding Applicant's claim.

Applicant has alleged facts that, if true, might entitle him to relief. *Ex parte Spann*, 132 S.W.3d 390 (Tex.Crim.App. 2004). 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 Texas Department of Criminal Justice's Office of the General Counsel to file an affidavit responding to Applicant's claim that he is being denied credit on his sentence. After receiving the affidavit, the trial court may make additional findings and conclusions as to whether Applicant is entitled to relief, and it may 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 additional findings 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: December 5, 2012  
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