



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-79,397-01

EX PARTE BRUCE ALAN CRISWELL, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. F-2009-1199-E IN THE 367TH DISTRICT COURT
FROM DENTON 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 one count of indecency with a child, sentenced to ten years' imprisonment, and four counts of aggravated sexual assault of a child, sentenced to 20 years' imprisonment for each count. The Second Court of Appeals affirmed his convictions. *Criswell v. State*, No. 02-10-00074-CR (Tex. App.—Ft. Worth August 31, 2011).

Applicant contends, *inter alia*, that his trial counsel rendered ineffective assistance by failing to reduce a seventeen year plea offer to writing.

Applicant has alleged facts that, if true, might entitle him to relief. *Strickland v. Washington*, 466 U.S. 668 (1984); *Ex parte Patterson*, 993 S.W.2d 114, 115 (Tex. Crim. App. 1999). 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 trial counsel to respond to 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 make findings of fact as to whether a seventeen year offer was made to Applicant from the State, and if so, whether counsel conveyed it to Applicant. If such an offer was conveyed to Applicant, the trial court shall make findings as to whether Applicant affirmatively declined the plea offer and if not, what happened with that offer. The trial court shall make findings of fact and conclusions of law as to whether the performance of Applicant's trial counsel 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. 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: May 22, 2013

Do not publish