



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-50,257-23

EX PARTE RICHARD JAMES JOHNSON, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 21,459-AAAAAAAA IN THE 159TH DISTRICT COURT
FROM ANGELINA 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 burglary of a habitation and sentenced to thirty years' imprisonment. The Ninth Court of Appeals affirmed his conviction. *Johnson v. State*, Nos. 09-00-00391-CR & 09-00-00392-CR (Tex. App.—Beaumont Apr. 18, 2001) (not designated for publication).

Applicant alleges that he is actually innocent. He contends that a statement from Jacob Woodward is newly discovered and shows that he did not participate in the burglary.

Applicant has alleged facts that, if true, might entitle him to relief. *Ex parte Elizondo*, 947

S.W.2d 202 (Tex. Crim. App. 1996). 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 hold a live hearing and, at a minimum, hear testimony from Jacob Woodward.

The trial court 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 as to whether this claim could have been presented in one of Applicant's previously filed habeas corpus applications. The trial court shall also make specific findings concerning the credibility of Woodward's statement and habeas testimony. Finally, the trial court shall address whether the statement unquestionably establishes that Applicant is actually innocent of this offense. 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: June 11, 2014
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