



## IN THE COURT OF CRIMINAL APPEALS OF TEXAS

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NO. WR-81,011-02

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**EX PARTE ROY DURWOOD BRISTOW, Applicant**

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**ON APPLICATION FOR A WRIT OF HABEAS CORPUS  
CAUSE NO. 2011F00150-A IN THE 5TH DISTRICT COURT  
FROM CASS 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 arson and sentenced to eight years' imprisonment. He did not appeal his conviction.

Applicant contends that pursuant to the plea agreement, he would receive pre-sentence credit for time served since September 2, 2011. According to the judgment, he was credited with one day of pre-sentence time. He now contends that the plea agreement was breached.

Applicant has alleged facts that, if true, might entitle him to relief. *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 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 determine whether Applicant pleaded guilty pursuant to an agreement that he would receive pre-sentence credit for time served since September 2, 2011. If this credit was part of the plea agreement, the trial court shall also determine whether Applicant is receiving this credit and whether the agreement was breached. 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 4, 2014  
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