



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NOS. WR-81,033-01 AND WR-81,033-02

EX PARTE STEPHANIE GONZALES, Applicant

**ON APPLICATIONS FOR WRITS OF HABEAS CORPUS
CAUSE NOS. 00-08-00096-CRK-A AND 05-06-00046-CRK-A
IN THE 218TH DISTRICT COURT
FROM KARNES 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 these applications for writs of habeas corpus. *Ex parte Young*, 418 S.W.2d 824, 826 (Tex. Crim. App. 1967). Applicant originally pleaded guilty to aggravated assault in the -01 case, and received ten years' deferred adjudication community supervision. Her community supervision was revoked and she was adjudicated guilty in the -01 case, and was convicted of delivery of a controlled substance in the -02 case at the same time. In the -01 case, Applicant received a sentence of fifteen years' imprisonment after adjudication. In the -02 case, she was sentenced to twenty years' imprisonment. The Fourth Court of Appeals affirmed her

convictions in two opinions. *Gonzales v. State*, Nos . 04-07-00825-CR and 04-07-00824-CR (Tex. App. – San Antonio, April 29, 2009, *no pet.*).

In these applications Applicant contends, among other things,¹ that her trial counsel (adjudication counsel in the -01 case) rendered ineffective assistance because counsel failed to move for discovery, failed to obtain the medical records of the complainant in the -01 case and the arrest and conviction records of the State’s witnesses in the -02 case, failed to subpoena eye witnesses and medical expert witnesses in the -01 case, and failed to strike venire members who were related to Applicant and to a witness against Applicant from the -01 case.

Applicant has alleged facts that, if true, might entitle her 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 claims of ineffective assistance of counsel. The trial court may use any means set out in TEX. CODE CRIM. PROC. art. 11.07, § 3(d). In the appropriate case, the trial court may rely on its personal recollection. *Id.*

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 and conclusions of law as to whether the performance of Applicant’s trial counsel was deficient and, if so, whether counsel’s deficient

¹This Court has considered Applicant’s other grounds for review and finds them to be without merit.

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.

These applications 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 21, 2014
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