



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-81,096-01

EX PARTE WILLIE MACK ADAMS, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 30508 IN THE 3RD DISTRICT COURT
FROM ANDERSON 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 engaging in organized criminal activity and sentenced to thirty-five years' imprisonment. The Sixth Court of Appeals affirmed his conviction. *Adams v. State*, No. 06-12-00113-CR (Tex. App. - Texarkana, February 22, 2013, *pet. ref'd.*).

Applicant contends, among other things,¹ that his trial counsel rendered ineffective assistance

¹We have reviewed Applicant's other claims and find them to be without merit.

because counsel did not investigate Applicant's mental health history or criminal history before allowing Applicant to testify on his own behalf, and did not advise Applicant of the advantages and disadvantages of taking the stand.

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. Specifically, counsel shall state whether he was aware of any facts which might indicate that Applicant was not competent to stand trial, or was not competent to testify on his own behalf. Counsel shall state whether he advised Applicant that the decision of whether or not to testify was Applicant's, and whether he advised Applicant of the advantages and disadvantages of taking the stand. Counsel shall state whether Applicant was aware that his prior convictions could be used to impeach him if he testified on his own behalf. Counsel shall also state whether he explained the State's notice of intent to enhance Applicant's punishment with prior convictions to Applicant, and whether Applicant appeared to understand the effect of the enhancement notice. 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 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: April 16, 2014
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