



## IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-81,109-01

**EX PARTE MICHAEL BUNDRA, Applicant**

ON APPLICATION FOR A WRIT OF HABEAS CORPUS  
CAUSE NO. 10-CR-3338-D IN THE 105<sup>TH</sup> DISTRICT COURT  
FROM NUECES 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 assault/family violence and sentenced to ten years' imprisonment. Applicant filed a motion to dismiss his appeal, which was granted. *Bundra v. State*, No. 13-11-134-CR (Tex. App.–Corpus Christi delivered July 28, 2011).

Applicant contends that his trial counsel rendered ineffective assistance because he failed to investigate Applicant's medical and psychological history. He also alleges that counsel coerced him

into pleading guilty and failed to investigate the complainant's recantation of her statement that Applicant assaulted her. He also alleges that his appellate counsel coerced him into dismissing his direct appeal and waiving his right to file habeas corpus to challenge this conviction.

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 Applicant's waiver of his right to file habeas corpus in this cause was voluntarily made. If so, the trial court shall make a recommendation regarding whether this application should be denied based on that waiver. If the trial court determines that the waiver was not voluntarily made or that the habeas application should not be denied based on that waiver, then 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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