



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-81,132-01

EX PARTE MARTIN TERRAZAS, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 2804-A IN THE 121ST DISTRICT COURT
FROM YOAKUM 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 evading arrest or detention with a vehicle and sentenced to two years' imprisonment. He did not appeal his conviction.

Applicant contends that trial counsel failed to advise him of the deportation consequences of his guilty plea. After holding an evidentiary hearing, the trial court concluded, among other things, that counsel was not ineffective. We believe that the record is not sufficient to resolve

Applicant's claim.

Applicant has alleged facts that, if true, might entitle him to relief. *Padilla v. Kentucky*, 559 U.S. 356 (2010); *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 order trial counsel to respond a second time to Applicant's claim. The trial court may use any means set out in TEX. CODE CRIM. PROC. art. 11.07, § 3(d).

Applicant appears to be represented by counsel. If he is not and the trial court elects to hold a second 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 make further findings of fact and conclusions of law and determine whether Applicant's conviction is an "aggravated felony" for deportation purposes and whether this was clear from federal case law. Assuming that counsel's conduct was deficient, the trial court shall also determine whether Applicant would have pleaded not guilty and insisted on a trial. *Hill v. Lockhart*, 474 U.S. 52 (1985). 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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