



## IN THE COURT OF CRIMINAL APPEALS OF TEXAS

**NO. WR-75,852-02**

**EX PARTE PATRICK ONEAL BIBLE, Applicant**

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS  
CAUSE NO. CR14921-A IN THE 220TH DISTRICT COURT  
FROM BOSQUE COUNTY**

*Per curiam.*

### OPINION

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). A jury convicted Applicant of evading arrest or detention with a vehicle and sentenced him to twelve years' imprisonment as a repeat felon. The Tenth Court of Appeals affirmed the conviction. *Bible v. State*, \_\_\_ S.W.3d \_\_\_, No. 10-15-00131-CR (Tex. App.—Waco Mar. 3, 2016).

Applicant contends that his trial counsel rendered ineffective assistance for failing to object to the introduction of a written statement by an accomplice-witness who also testified against him.

The accomplice-witness implicated Applicant in the statement and at trial. Apart from the accomplice-witness's testimony and the prior written statement, there was no other evidence identifying Applicant as the driver of the pickup. On appeal, Applicant argued that there was not sufficient corroboration of the accomplice-witness's testimony. The appellate court agreed. Even so, it affirmed the conviction, holding that the accomplice-witness's prior written statement—to which trial counsel had no objection—provided independent evidence that was sufficient to support the conviction.

In habeas, Applicant complains that trial counsel failed to object to the introduction of the accomplice-witness's prior written statement. *See Strickland v. Washington*, 466 U.S. 668 (1984). Trial counsel responded that he had no strategy regarding the admittance of the accomplice-witness's statement, but he did use it in an attempt to impeach the accomplice-witness's testimony. The trial court has determined that trial counsel's performance was deficient and that such deficient performance prejudiced Applicant.

1. The parts of [the accomplice-witness's] written statement that implicate Applicant are hearsay and, with proper objection, would not have been admissible as statements against [the accomplice-witness's] penal interest.
2. Using [the accomplice-witness's] written statement to cross-examine [the accomplice-witness] instead of objecting to the admission of inadmissible hearsay in the affidavit is not reasonable trial strategy.
3. No reasonable trial strategy supported [the] decision not to object to the admission of those parts of [the accomplice-witness's] written statement.
4. Trial counsel [] provided ineffective assistance by failing to object to the parts of [the accomplice-witness's] written statement identifying Applicant as the driver of the fleeing vehicle.
5. Trial counsel's failure to object caused Applicant prejudice by effectively

undercutting Applicant's sole defense—a lack of corroboration of his accomplice's testimony. A reasonable probability exists that the result of the trial would have been different. With proper objection, inadmissible parts of [the accomplice-witness's] statement would have either been excluded and Applicant would have acquitted due to non-corroboration of the accomplice's testimony or, if erroneously admitted, Applicant's conviction would have been reversed on appeal.

The findings are supported by the habeas record. Relief is granted. The judgment in Cause No. CR14921 in the 220th District Court of Bosque County is set aside, and Applicant is remanded to the custody of the Sheriff of Bosque County to answer the charges as set out in the indictment. The trial court shall issue any necessary bench warrant within 10 days after the mandate of this Court issues.

Copies of this opinion shall be sent to the Texas Department of Criminal Justice-Correctional Institutions Division and Pardons and Paroles Division.

Delivered: October 18, 2017  
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