IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NOS. WR-86,442-01 & WR-86,442-02

EX PARTE RONNIE LEE DAWSON JR., Applicant

ON APPLICATIONS FOR WRITS OF HABEAS CORPUS
CAUSE NOS. CR-22806-A & CR-13-24661-A
IN THE 336TH DISTRICT COURT
FROM FANNIN COUNTY

***Per curiam*.**

O P I N I O N

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 was convicted of manufacture or delivery of a controlled substance in a drug free zone and, after his community supervision was revoked, was sentenced to eight years' imprisonment (WR-86,442-01). On the day he was revoked in his controlled substance case, Applicant also pleaded guilty to evading arrest with a vehicle and was sentenced to five years' imprisonment (WR-86,442-02). Due to the drug free zone finding in the controlled substance case, the evading arrest sentence was ordered to run consecutively.

Applicant did not appeal his convictions.

Applicant contends, among other things, that trial counsel in the controlled substance case rendered ineffective assistance because she did not investigate the validity of the drug free zone allegation.

Habeas counsel attempted to supplement the habeas corpus record with additional grounds to supplement Applicant's pro-se allegations. However, the claims were not raised on the 11.07 form, rendering the writ applications non-compliant and subject to summary dismissal. Nevertheless, the State did not move to dismiss the application, conceded the applicant was entitled to relief, the trial court made relevant findings of fact, and there was adequate proof in the record to support the claim, so this Court will consider the writ application. *Ex parte Golden*, 991 S.W.2d 859, 862 n.2 (Tex. Crim. App. 1999).

We agree with the trial court and the parties that Applicant is entitled to relief. However, we do not agree with the habeas court's findings that Applicant is actually innocent of the manufacture or delivery of a controlled substance charge. He has not carried his burden to prove that evidence concerning the drug free zone is newly discovered, and he admitted to committing the underlying offense in his pleadings and during the habeas hearing. *Ex parte Brown*, 205 S.W.3d 538, 545 (Tex. Crim. App. 2006); *State v. Wilson*, 324 S.W.3d 595, 598 (Tex. Crim. App. 2010).

After an independent review of the record, we conclude that trial counsel in Cause Number 22806 erred in not undertaking an independent investigation of the validity of the drug free zone allegation, and that this error caused Applicant's plea to be involuntary. We also agree with the habeas court's findings that Applicant's guilty plea in Cause Number CR-13-24661 was involuntary. Relief is granted. The judgments in Cause Nos. 22806 and CR-13-24661 in the 336th District Court

of Fannin County are set aside, and Applicant is remanded to the custody of the Sheriff of Fannin County to answer the charges as set out in the indictments.

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: December 6, 2017
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