



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-23,411-05

EX PARTE CHARLES ALLEN BLACKSHEAR, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 1982-526-C2B IN THE 54TH DISTRICT COURT
FROM MCLENNAN 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 pleaded guilty to burglary of a habitation, and was sentenced to twenty-five years' imprisonment.

Applicant contends that he should have discharged his sentence in this cause before the issuance of the pre-revocation warrant leading to the revocation of his mandatory supervision. Although Applicant is still serving a concurrent sentence in cause number 82-531-C for aggravated robbery with a deadly weapon, which would not have discharged prior to the issuance of the pre-revocation warrant, TDCJ's records appear to reflect that Applicant is still serving both sentences.

Applicant has alleged facts that, if true, might entitle him to relief. 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 the Texas Department of Criminal Justice's Office of the General Counsel to file an affidavit listing Applicant's sentence begin date and the dates of any releases to parole or mandatory supervision. The affidavit shall also list the dates of the issuance of any parole-revocation warrants leading to the revocation of such parole or mandatory supervision. The affidavit shall state whether, on the date of the issuance of the most recent pre-revocation warrant, Applicant should have discharged his sentence in cause number 82-526-C. Finally, the affidavit should indicate whether or not Applicant has submitted his claim to the time credit resolution system of TDCJ, and if so, the date when the claim was submitted.

The trial court may also order depositions, interrogatories or a hearing. 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 Applicant has properly exhausted his administrative remedies as required by TEX. GOV'T CODE § 501.0081(b)-(c). The trial court shall then make findings and conclusions as to whether Applicant's flat time credits are being properly calculated, and as to whether Applicant should have discharged his sentence in this cause number before the issuance of the most recent pre-revocation warrant. 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: January 30, 2013
Do not publish