



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-31,852-03

EX PARTE CHRISTOPHER RYAN TROLLINGER, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 13,765 IN THE 258TH JUDICIAL DISTRICT COURT
FROM POLK 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 writ of habeas corpus. *Ex parte Young*, 418 S.W.2d 824, 826 (Tex. Crim. App. 1967). Applicant was convicted of one count of unlawful possession of a firearm by a felon and one count of aggravated assault, and was sentenced to twenty years' imprisonment for the unlawful possession of a firearm by a felon count, and sixty years' imprisonment for the aggravated assault count. He did not appeal his conviction.

Applicant contends, *inter alia*, that his trial counsel rendered ineffective assistance because counsel failed to investigate Applicant's history of psychological problems, head injury, drug abuse,

and psychiatric hospitalization. Applicant also alleges that counsel failed to have him evaluated for competency to stand trial. Counsel has provided affidavits in which he states that despite Applicant's uncontrollable behavior and inability to hold a rational conversation with counsel, he did not investigate Applicant's mental health history or request that he be evaluated for competency to stand trial. Counsel states that he performed little or no pre-trial investigation because he had been informed that the complainant, Applicant's brother, would not testify. This proved to be incorrect. The State responds that there is nothing in the court's file or transcript to indicate that Applicant's behavior was bizarre or irrational at the time of trial. However, because Applicant did not appeal, this Court does not have access to a trial transcript.

On May 11, 2011, this Court remanded to the trial court to obtain additional information to address Applicant's allegations. This Court ordered the trial court to provide Applicant's trial counsel with the opportunity to respond in greater detail to Applicant's claim of ineffective assistance of counsel. Specifically, this Court ordered that trial counsel describe more specifically what behavior Applicant engaged in which leads counsel to believe in retrospect that he was not competent to stand trial. This Court also ordered the trial court to supplement the habeas record with a copy of the trial transcript, if such a transcript exists.

On August 23, 2012, this Court received the supplemental record, consisting only of the trial court's findings of fact. The trial court finds, *inter alia*, that the habeas record has been supplemented with a copy of the trial transcript. The trial transcript was not included in the supplemental record, and this Court has been unable to obtain a copy of such transcript from the Polk County District Clerk.

Without the trial record, the trial court's findings of fact after remand are unsupported. The

record is necessary to fully address Applicant's claims. Therefore, this application will be held in abeyance until the trial court has supplemented the habeas record with a copy of the trial record. The record shall be prepared within 90 days of this order. If any continuances are granted, a copy of the order granting the continuance shall be sent to this Court. 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 returned to this Court within 120 days of the date of this order. Any extensions of time shall be obtained from this Court.

Filed: March 27, 2013
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