



# IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NOS. WR-61,380-02 & -03

**EX PARTE DENWITT ZACK WILLIAMS, Applicant**

ON APPLICATIONS FOR A WRIT OF HABEAS CORPUS  
CAUSE NOS. 1207434-A & 1207435-A IN THE 209TH DISTRICT COURT  
FROM HARRIS 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 these applications for a writ of habeas corpus. *Ex parte Young*, 418 S.W.2d 824, 826 (Tex. Crim. App. 1967). Applicant was convicted of aggravated robbery and felon in possession of a firearm and sentenced to imprisonment for thirty-five and twenty-five years, respectively. The Fourteenth Court of Appeals affirmed his convictions. *Williams v. State*, Nos. 14-10-00448-CR & 14-10-00449-CR (Tex. App.—Houston [14th Dist.] 2011, pet. ref'd).

Applicant contends, among other things, that trial counsel rendered ineffective assistance because at guilt and punishment he failed to present evidence of Applicant's mental health history.

Without obtaining a response from counsel, the trial court made findings of fact and conclusions of law, largely consisting of broad legal principles derived from the U.S. Supreme Court's and this Court's holdings on the Sixth Amendment. The trial court recommended that we deny relief. We believe that the record should be further developed.

Applicant has alleged facts that, if true, might entitle him to relief. *Strickland v. Washington*, 466 U.S. 668 (1984); *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 shall order trial counsel to respond to the claims above. Counsel shall state, among other things, whether he investigated Applicant's mental health history and, if so, whether he believed such evidence negated Applicant's *mens rea*, *Jackson v. State*, 160 S.W.3d 568, 574 (Tex. Crim. App. 2005), or mitigated Applicant's punishment in his aggravated robbery case. The trial court may use any means set out in TEX. CODE CRIM. PROC. art. 11.07, § 3(d).

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 him at the hearing. TEX. CODE CRIM. PROC. art. 26.04.

After obtaining a response from counsel, the trial court shall make findings of fact and conclusions of law as to whether counsel's conduct was deficient and, if so, Applicant was prejudiced at guilt or punishment. 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 claims for habeas corpus relief.

These applications 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: September 11, 2013  
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