



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-71,316-02

EX PARTE TAMALA NICOLE BROWN, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 05-02621-CRF-272-B
IN THE 272ND DISTRICT COURT FROM BRAZOS 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). A jury convicted Applicant of aggravated assault and sentenced her to eighteen years' confinement. The conviction was affirmed on direct appeal. *Brown v. State*, No. 10-06-00015-CR (Tex.App.—Waco del. Mar. 14, 2007).

Applicant asserts that her trial counsel provided ineffective assistance. She argues that he failed to adequately confer with her before trial, that he failed to call witnesses and present other evidence in support of her claim of self-defense, that he failed to advise her of the consequences of testifying in her own defense, and that he failed to consult with her regarding the calling of the victim

to testify and that he did call the victim, who provided damaging testimony. The trial court held an evidentiary hearing on these issues, heard testimony, entered findings, and recommends that relief be denied. This Court previously dismissed this writ application as non-compliant because an incorrect form application was used for the habeas filing. *See* TEX. R. APP. P. 73.2. Habeas counsel has pointed out that the form used was correct at the time it was filed with the trial court in 2010 and asks this Court to reconsider the dismissal. Habeas counsel is correct, and this Court withdraws the prior dismissal for non-compliance.

After an independent review of the record provided, this Court agrees with the trial court that relief should be denied. Applicant fails to show both deficient performance and resulting harm in her ineffective assistance of counsel claims. *See Strickland v. Washington*, 466 U.S. 668, 687 (1984).

This Court adopts the findings of the trial court, and relief is denied.

Filed: September 18, 2013

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