



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NOS. WR-75,914-01, -02, -03 & -04

EX PARTE RICARDO CAVAZOS, Applicant

**ON APPLICATIONS FOR A WRIT OF HABEAS CORPUS
CAUSE NOS. 51,006-C, 51,007-C, 51,008-C & 51,009-C
IN THE 251ST DISTRICT COURT
FROM POTTER 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 one count of sexual assault, two counts of aggravated sexual assault, and one count of indecency with a child. He was sentenced to imprisonment for twenty years on the sexual assault count, for life and sixty years on the aggravated sexual assault counts, and for ten years on the indecency with a child count. The Seventh Court of Appeals dismissed his appeals. *Cavazos v. State*, Nos. 07-10-00391-CR, 07-

10-00392-CR, 07-10-00393-CR & 07-10-00394-CR (Tex. App.–Amarillo Oct. 6, 2010, no pet.).

Applicant contends that he was denied his right to appeal. On June 22, 2011, we remanded these applications and directed the trial court to make findings of fact and conclusions of law after obtaining a response from trial counsel. On remand, after reviewing affidavits filed by trial counsel and the prosecutor for the State, the trial court made findings and conclusions and recommended that we grant Applicant out-of-time appeals. We believe that the trial court should make further findings.

Applicant has alleged facts that, if true, might entitle him to relief. *Ex parte Axel*, 757 S.W.2d 369 (Tex. Crim. App. 1988). 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 make findings as to whether: (1) Applicant told or attempted to tell trial counsel, within the period during which notices of appeal could have been timely filed, that he wished to appeal his convictions; (2) Applicant in fact inquired about the status of his appeals in 2007;¹ and (3) trial counsel, based on his past practices, contacted Applicant to discuss the possibility of filing appeals. The trial court shall also make any other findings that it deems relevant and appropriate to the disposition of Applicant's claim 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. 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

¹Applicant alleges that in letters, dated March 5, 2007 and August 13, 2007 and addressed to the trial court, he inquired about the status of his appeals.

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: November 9, 2011

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