



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NOS. WR-76,669-01, WR-76,669-02 AND WR-76,669-03

EX PARTE MICHAEL ASIBEY OSEI, Applicant

ON APPLICATIONS FOR WRITS OF HABEAS CORPUS
CAUSE NOS. W03-48341-M(A), W03-48342-M(A) AND W03-48343-M(A)
IN THE 194TH DISTRICT COURT FROM DALLAS COUNTY

Per curiam.

OPINION

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 writs of habeas corpus. *Ex parte Young*, 418 S.W.2d 824, 826 (Tex. Crim. App. 1967). Applicant was convicted of two charges of aggravated assault of a public servant in the -01 and -02 cases, and one charge of aggravated robbery in the -03 case. Applicant was sentenced to forty years' imprisonment in each of the aggravated assault cases, to be served consecutively with a fifty-year sentence in the aggravated robbery case. In two separate opinions, the Fifth Court of Appeals affirmed his convictions. *Osei v. State*, Nos. 05-04-00389-CR and 05-04-00390-CR (Tex. App. – Dallas, April 22, 2005) and *Osei v. State*, No. 05-03-01428-CR (Tex. App. – Dallas, August 24, 2004).

Applicant contends that his retained PDR counsel rendered ineffective assistance because counsel failed to timely file petitions for discretionary review in all three cases. We remanded this application to the trial court for findings of fact and conclusions of law.

The trial court conducted a live hearing on March 7, 2013, at which Applicant, his mother, Applicant's appellate counsel and his retained PDR counsel testified. Based on the testimony and evidence presented at the habeas hearing, the trial court has entered findings of fact and conclusions of law that PDR counsel failed to timely file petitions for discretionary review in all three cases, thereby denying Applicant a meaningful opportunity to petitions this Court for discretionary review. The trial court recommends that relief be granted.

We find, therefore, that Applicant is entitled to the opportunity to file out-of-time petitions for discretionary review of the judgments of the Fifth Court of Appeals in Cause Nos. 05-04-00389-CR, 05-04-00390-CR and 05-03-01428-CR that affirmed his convictions in Cause Nos. F03-48341-M, F03-48342-M and F03-48343 from the 194th District Court of Dallas County. Applicant shall file his petitions for discretionary review with this Court within 30 days of the date on which this Court's mandate issues.

Delivered: September 18, 2013
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