



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NOS. WR-76,884-01, -02 & -03

EX PARTE BRANDON KEITH STRAIT, AKA WILLIE LEE STRAIT, Applicant

**ON APPLICATIONS FOR A WRIT OF HABEAS CORPUS
CAUSE NOS. 366-82126-09, 366-80925-09 & 366-80926-09
IN THE 366TH DISTRICT COURT
FROM COLLIN 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 two counts of burglary of a habitation and one count of attempted burglary of a habitation. He was sentenced to imprisonment for one term of fifteen years and two terms of ten years. The Fifth Court of Appeals dismissed his appeals. *Strait v. State*, Nos. 05-10-00549-CR, 05-10-00550-CR & 05-10-00674-CR (Tex. App.—Dallas 2010, pet.ref'd).

Applicant contends, among other things, that trial counsel rendered ineffective assistance.

Strickland v. Washington, 466 U.S. 668 (1984); *Ex parte Lemke*, 13 S.W.3d 791,795-96 (Tex. Crim. App. 2000). On January 11, 2012, we remanded these applications and directed the trial court to make findings of fact and conclusions of law. On remand, the trial court made findings and conclusions and recommended that these applications be denied. We believe that the record is not adequate to resolve Applicant's claims. The trial court shall order counsel to respond and state whether he advised Applicant that he could appeal his convictions or sentences, why he failed to object when the trial court signed certifications stating that Applicant's cases were not plea bargains, and whether he believed that Applicant pleaded guilty on the condition that he would be able to appeal his convictions or sentences. The trial court may use any means set out in TEX. CODE CRIM. PROC. art. 11.07, § 3(d).

Applicant appears to be represented by counsel. If he is not and 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 reviewing counsel's response, the trial court shall make further findings of fact and conclusions of law as to whether counsel's conduct was deficient and whether Applicant would have pleaded not guilty but for this deficient conduct. 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. 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. If available, copies of the reporter's records of the guilty plea hearing, punishment hearing, and motion for new trial hearing shall also 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: February 13, 2013
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