



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-77,110-01

EX PARTE FELIX GALDAMEZ, Applicant

ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. W95-47420-J(A) IN THE CRIMINAL DISTRICT COURT #3
FROM DALLAS 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). Applicant pleaded guilty to unlawfully carrying a weapon in a tavern, and originally received deferred adjudication community supervision. His guilt was later adjudicated, and he was sentenced to two years' imprisonment. He did not appeal his conviction.

Applicant contends that his trial counsel rendered ineffective assistance because counsel did not advise him of the immigration and deportation consequences of his guilty plea in this case.

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 Applicant's claim of ineffective assistance of counsel. Specifically, counsel shall state what advice, if any, he gave to Applicant regarding the immigration/deportation consequences of his plea in this 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 Applicant at the hearing. TEX. CODE CRIM. PROC. art. 26.04.

The trial court shall first supplement the habeas record with copies of the plea documents in this case, including the admonishments, waivers and stipulations, and any written plea agreement. The trial court shall make findings of fact and conclusions of law as to what specific advice Applicant was given with regard to the immigration consequences of his plea in this case, and as to whether that advice was accurate. The trial court shall make findings as to whether the performance of Applicant's trial counsel was deficient and, if so, whether counsel's deficient performance prejudiced Applicant. 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 claim for habeas corpus relief.

This application 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 12, 2012

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