



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-77,678-01

EX PARTE CHRISTOPHER DONTE LOUD, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 34,448 IN THE 66TH DISTRICT COURT
FROM HILL 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 was convicted of aggravated assault and sentenced to fifteen years' imprisonment. The Fourteenth Court of Appeals affirmed the original judgment of conviction. *Loud v. State*, No. 14-09-00332-CR (Tex. App.–Houston [14th] 2010, pet ref'd).

Applicant contends, among other things, that trial counsel rendered ineffective assistance because he did not notice that the caption in the indictment and the offense listed in the admonishments and other plea documents was not the charged offense. Applicant also contends

counsel allowed Applicant to be placed on probation for the wrong offense.

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 counsel to respond to Applicant's claim. 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 him at the hearing. TEX. CODE CRIM. PROC. art. 26.04.

The trial court shall make findings of fact and conclusions of law as to whether: (1) Applicant knew that the offense alleged in the indictment was aggravated assault with a deadly weapon; (2) Applicant pleaded no contest, despite knowing that offense listed in the caption of the indictment and other plea documents was not aggravated assault with a deadly weapon; and (3) if not, Applicant would have insisted on a trial. The trial court shall also make findings and conclusions as to whether counsel rendered Applicant's plea involuntary. 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: August 22, 2012
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