



# IN THE COURT OF CRIMINAL APPEALS OF TEXAS

**NO. WR-77,861-01**

**EX PARTE JERMAINE DeLEON JOSEPH, Applicant**

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS  
CAUSE NO. W05-57893-M (A) IN THE 194th DISTRICT COURT  
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 was convicted of the offense of aggravated assault with a deadly weapon and sentenced to imprisonment for ten years.

The Applicant alleges, *inter alia*, that his trial counsel rendered ineffective assistance in this case. Specifically, the Applicant alleges that counsel was ineffective for:

- A. Failing to bring forth facts of the case or have a firm grasp of the law;
- B. Allowing the Applicant to accept a plea without supporting evidence;
- C. Failing to safeguard Applicant's best interests;

D. Failing to contest the deadly weapon finding on a lack of evidence;

E. Advising Applicant to plead guilty when the evidence did not support a finding of guilty; and,

F. Coercing the Applicant into pleading guilty.

In its answer to these allegations, the State's replies as follows:

The State contends that Applicant was provided with effective assistance of counsel. The State, however, recognizes that further evidence may be needed regarding counsel's representation of Applicant. Therefore, the State requests that this Court issue an order designating issues and gather evidence, as is customary, by way of affidavit from defense counsel or hearing should the Court deem such to be necessary.

We agree with the State's request in this case. Therefore, we remand this application to the 194th District Court of Dallas County to allow the trial judge to complete an evidentiary investigation and enter findings of fact and conclusions of law regarding the Applicant's allegations of ineffective assistance of counsel.

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 26, 2012

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