



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NOS. WR-78,597-01, -02 & -03

EX PARTE CHRISTOPHER ALLEN ROWSEY, Applicant

ON APPLICATIONS FOR A WRIT OF HABEAS CORPUS
CAUSE NOS. D110300-R, D120014-R & D120015-R IN THE 260TH DISTRICT COURT
FROM ORANGE 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 driving while intoxicated and one count of retaliation and sentenced to fifteen years' imprisonment on each count. He did not appeal his convictions.

Applicant contends that his trial counsel rendered ineffective assistance. Applicant has alleged facts that, if true, might entitle him to relief. *Strickland v. Washington*, 466 U.S. 668 (1984); *Hill v. Lockhart*, 474 U.S. 52 (1985). 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 and state whether he advised Applicant that he would be sentenced as a habitual offender, TEX. PEN. CODE § 12.42(d), if he went to trial, and whether he advised Applicant that the punishment range was to 2 to 20 years. The trial court may also rely on its personal recollection. 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 counsel's conduct was deficient and, if so, Applicant would have insisted on a trial but for counsel's 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 claim 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. 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: December 5, 2012
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