



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-78,833-01

EX PARTE CID ARTECONA, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 052550 IN THE 15TH DISTRICT COURT
FROM GRAYSON 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 two counts of aggravated sexual assault and sentenced to imprisonment for life on each count. The Fifth Court of Appeals affirmed his convictions. *Artecona v. State*, 05-09-01283-CR (Tex. App.—Dallas 2011, no pet.).

Applicant contends that he was denied the opportunity to file a *pro se* petition for discretionary review (PDR). Applicant has alleged facts that, if true, might entitle him to relief. *Strickland v. Washington*, 466 U.S. 668 (1984); *Ex parte Wilson*, 956 S.W.2d 25 (Tex. Crim. App.

1997). In these circumstances, additional facts are needed. Pursuant to *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 appellate counsel to respond to Applicant's claim.

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 as to whether the April 21, 2011 letter in the record is an accurate copy of the letter appellate counsel sent Applicant. If the trial court finds that it is, it shall also determine from the mail logs at the Texas Department of Criminal Justice when Applicant received this letter. The trial court shall also make any other findings of fact 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: January 16, 2013
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