



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-78,955-01

EX PARTE DANNY LEE HOLLOWAY, II, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 18662 IN THE 6TH DISTRICT COURT
FROM LAMAR 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 Applicant's for a writ of habeas corpus. *Ex parte Young*, 418 S.W.2d 824, 826 (Tex. Crim. App. 1967). On February 13, 2013, this Court held the application in abeyance and remanded to the trial court to make findings of fact and supplement the record with the transcript of any hearing. The order specified that the supplemental record be sent to this Court by June 13, 2013.

On May 14, 2013, this Court received a verified motion from the State, seeking to stay Applicant's release from custody upon posting bond. Attached to the motion is a copy of the findings of fact and conclusions of law apparently signed by the trial court on May 7, 2013. The

findings of fact and conclusions of law include an order that Applicant be released from custody upon posting a \$75,000.00 bond. Although not explicitly set out in the order, the trial court appears to rely on its authority to release certain applicants on bond pursuant to Article 11.65 of the Texas Code of Criminal Procedure.

Article 11.65 allows the trial court to release an applicant on bond upon making or approving findings of fact and conclusions of law which are “jointly stipulated to by the applicant and the State.” In this case, the State asserts that the findings of fact and conclusions of law signed by the trial court were not jointly stipulated to by Applicant and the State, as the statute requires. Therefore, the trial court was without authority to grant Applicant bond under Article 11.65. We are unaware of any other authority for the granting of bond in this situation.

The State’s motion is granted. It is hereby ordered that the portion of the trial court’s findings of fact and conclusions of law ordering Applicant’s release from custody upon posting a \$75,000.00 bond is vacated. Applicant shall not be released on bond until the trial court shows that it has authority to order Applicant’s release.

Filed: June 12, 2013
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