



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NOS. WR-79,042-01 & -02

EX PARTE COREY JACKSON, Applicant

**ON APPLICATIONS FOR A WRIT OF HABEAS CORPUS
CAUSE NOS. W10-30843-H(A) & W10-30844-H(A)
IN CRIMINAL DISTRICT COURT NO. 1
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 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 possession with intent to deliver a controlled substance and unlawful possession of a firearm. He was sentenced to ten years' imprisonment on each count. He did not appeal his convictions.

Applicant contends, among other things, that although he pleaded guilty on the condition that his federal and state sentences would run concurrently, he is not receiving credit on his federal sentence while confined on his state sentences. On March 6, 2013, we remanded these applications

and directed the trial court to determine whether: (1) Applicant, while in state custody, was receiving credit on his federal sentence, and (2) if not, Applicant pleaded guilty on the condition that his state and federal sentences would run concurrently. On remand, the trial court found that Applicant was in fact receiving credit on his federal sentence. The trial court recommended that we deny these applications.

Applicant also contends that counsel advised him that he would serve his state and federal sentences in federal prison. Applicant has alleged facts that, if true, might entitle him to relief. *Strickland v. Washington*, 466 U.S. 668 (1984). 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). In the appropriate case, the trial court may rely on its personal recollection. *Id.*

If the trial court elects to hold a second 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 further findings of fact and conclusions of law as to whether: (1) counsel advised Applicant that he would serve his state and federal sentences in federal prison; (2) this advice was deficient; and (3) there is a reasonable probability that but for this advice, Applicant would not have pleaded guilty and would have insisted on a trial. *Hill v. Lockhart*, 474 U.S. 52, 59 (1985). 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: August 21, 2013
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