



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NOS. WR-79,416-01 & WR-79,416-02

EX PARTE PATRICK BERNARD INGRAM, Applicant

ON APPLICATIONS FOR WRITS OF HABEAS CORPUS
CAUSE NOS. F-0952630-M & F-0952629-M
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 these applications for writs of habeas corpus. *Ex parte Young*, 418 S.W.2d 824, 826 (Tex. Crim. App. 1967). Applicant was convicted of indecency with a child by exposure in two different cause numbers, and sentenced to thirty-five years' imprisonment for each cause. The Fifth Court of Appeals affirmed his convictions. *Ingram v. State*, Nos. 05-10-00973-CR & 05-10-00974-CR (Tex. App.—Dallas January 12, 2012).

Applicant contends, *inter alia*, that his convictions violate double jeopardy and that his trial counsel rendered ineffective assistance by failing to object to hearsay testimony, failing to challenge a biased juror, and failing to secure Applicant's presence when the trial court responded to a note

from the jury.

It appears from the appellate opinion that these offenses arose from the same exposure. If so, Applicant may be entitled to relief. *Harris v. State*, 359 S.W.3d 625, 631 (Tex. Crim. App. 2011). Applicant has alleged facts that, if true, might entitle him to relief. *Strickland v. Washington*, 466 U.S. 668 (1984); *Ex parte Patterson*, 993 S.W.2d 114, 115 (Tex. Crim. App. 1999).

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 to Applicant's claim of ineffective assistance of counsel. 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 Applicant at the hearing. TEX. CODE CRIM. PROC. art. 26.04.

The trial court shall make findings of fact as to whether these offenses arose from the same exposure, and if so, whether Applicant's double jeopardy rights were violated. The trial court shall make findings of fact and conclusions of law as to whether the performance of Applicant's trial counsel was deficient and, if so, whether counsel's deficient performance prejudiced Applicant. 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: May 22, 2013
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