



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-79,471-01

EX PARTE WILLIAM C. SCHILLING, Applicant

ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 2006CR7994-W1 IN THE 226TH DISTRICT COURT
FROM BEXAR 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 six counts of aggravated sexual assault and four counts of indecency with a child. He was sentenced to imprisonment for fifty years on each sexual assault count and twenty years on each indecency count. The Fourth Court of Appeals affirmed his convictions. *Schilling v. State*, No. 04-08-00591-CR (Tex. App.—San Antonio 2009, pet. ref'd).

Applicant contends that trial counsel was ineffective, the State failed to disclose exculpatory and impeachment evidence, the State knowingly relied on perjured testimony, and appellate counsel

was ineffective.

Judge Andrew W. Carruthers, the criminal law magistrate in Bexar County, held a live evidentiary hearing and made findings of fact and conclusions of law. He recommended that we deny this application. Nothing in the record indicates, however, that the trial court adopted his findings and conclusions. Under Article 11.07, although a trial court may appoint a magistrate to make findings of fact and conclusions of law, the trial court should adopt or approve these findings and conclusions if it wishes this Court to consider them. TEX. CODE CRIM. PROC. art. 11.07, § 3(d). Accordingly, the trial court shall make new findings and conclusions or adopt Judge Carruthers' findings and conclusions.

This application will be held in abeyance until the trial court has complied with this order. A supplemental transcript containing the trial court's findings and conclusions shall be forwarded to this Court within 60 days of the date of this order. Any extensions of time shall be obtained from this Court.

Filed: October 9, 2013
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