



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-79,684-02

EX PARTE ADRIAN QUINTANA, Applicant

ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 2008CR2880-W2 IN THE 175TH 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 aggravated robbery and sentenced to twenty-five years' imprisonment.

Applicant contends that he is being denied credit for pre-sentencing jail time awarded to him by the trial court in a judgment *nunc pro tunc*. Applicant alleges that the trial court signed the order *nunc pro tunc* granting him 523 days of additional credit on May 22, 2013. Applicant alleges that TDCJ has not acknowledged the judgment *nunc pro tunc* or adjusted his sentence accordingly. Applicant has submitted his claim to the time credit resolution system of TDCJ, but has been

informed that TDCJ will not change his time calculations without receiving a copy of the judgment *nunc pro tunc*.

The trial court entered findings of fact and conclusions of law on August 27, 2013, indicating that it has determined from TDCJ that the judgment *nunc pro tunc* was received and that Applicant has been granted the time credit by TDCJ as ordered by the trial court. However, TDCJ does not have any record of having received the judgment *nunc pro tunc* and has not made any adjustments in Applicant's time credit or sentence in this case.

Applicant has alleged facts that, if true, might entitle him to relief. 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 send a copy of the judgment *nunc pro tunc* to TDCJ and shall supplement the habeas record with copies of both the original judgment in this case and the judgment *nunc pro tunc*. The trial court shall also supplement the record with written confirmation that the judgment *nunc pro tunc* has been received by TDCJ and that Applicant's time credits have been corrected to reflect the proper amount of pre-sentencing jail time credit awarded by the trial court.

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.

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: September 25, 2013

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