



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-79,725-01

EX PARTE KERRY DON RUSSEAU, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 241-0629-10-A IN THE 241ST DISTRICT COURT
FROM SMITH 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 the offense of driving while intoxicated and sentenced to imprisonment for eleven years.

On December 15, 2011, an order designating issues was signed by the trial court. The record suggests that the trial court convened a hearing in January 2013, but the record contains no response from trial counsel and no findings from the trial court. The habeas record has been forwarded to this Court prematurely. We remand this application to the 241st District Court of Smith County to allow the trial judge to complete an evidentiary investigation and enter findings of fact and conclusions of

law.

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: August 21, 2013

Do not publish