



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NOS. WR-79,776-01, -02 & -03

EX PARTE COURTNEY ADAM WATTS, Applicant

**ON APPLICATIONS FOR A WRIT OF HABEAS CORPUS
CAUSE NOS. 1236670D, 1236671D & 1236802D
IN CRIMINAL DISTRICT COURT NUMBER TWO
FROM TARRANT 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 of marihuana and possession of alprazolam and hydrocodone with the intent to deliver. He was sentenced to eight years' imprisonment on each count. He did not appeal his convictions.

Applicant contends, among other things, that counsel failed to advise him that he could appeal his convictions. The trial court made findings of fact and conclusions of law and recommended that we deny these applications. We believe that the record is not adequate to resolve

Applicant's claim. According to the record, Applicant pleaded guilty without a recommendation from the State and waived his right to appeal. Nothing in the record indicates, however, whether his waivers were bargained for or made in exchange for a recommendation from the State. "When a presentencing waiver of appeal was not bargained for in exchange for an agreed upon sentence, concerns as to the validity of the waiver are raised." *Ex parte Delaney*, 207 S.W.3d 794, 798 (Tex. Crim. App. 2006).

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. 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 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 Applicant's waivers of appeal were valid; counsel's conduct was deficient; and his conduct rendered Applicant's pleas involuntary. 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: July 24, 2013

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