



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NOS. WR-80,396-01 AND WR-80,396-02

EX PARTE ADAM LEWIS TRINIDAD, Applicant

**ON APPLICATIONS FOR WRITS OF HABEAS CORPUS
CAUSE NOS. 11,317 AND 11,318 IN THE 46TH DISTRICT COURT
FROM WILBARGER 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 two charges of sexual assault of a child and sentenced to ten years' imprisonment for each charge. The trial court ordered the sentences to run consecutively.

Applicant contends that his counsel rendered ineffective assistance because counsel failed to timely file a notice of appeal. The trial court finds that Applicant's trial attorney was appointed to represent Applicant on appeal, but failed to timely file notice of appeal.

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); *Ex parte Axel*, 757 S.W.2d 369 (Tex. Crim. App. 1988). 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 counsel to respond to Applicant's claim of ineffective assistance of counsel. Specifically, counsel shall state whether Applicant advised him that he wanted to appeal these convictions, and if not, why counsel was appointed to represent him on appeal. If Applicant did advise counsel that he wanted to appeal, counsel shall state why he failed to timely file notice of appeal. 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 first supplement the habeas record with copies of any documents or portions of the trial record showing that Applicant expressed a desire to appeal these convictions. The trial court shall make findings of fact and conclusions of law as to whether Applicant was denied his right to a meaningful appeal because Applicant's counsel failed to timely file a notice of appeal. 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: November 6, 2013
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