



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NOS. 51,824-01, -03, and -04

EX PARTE JASON JEROME WILLIAMS, Applicant

ON APPLICATION FOR A WRIT OF HABEAS CORPUS
FROM SWISHER COUNTY

The order was delivered per curiam.

ORDER

These are post-conviction applications for a writ of habeas corpus filed pursuant to Article 11.07, V.A.C.C.P. Applicant was convicted of delivery of more than one gram of cocaine and two counts of delivery in a drug free zone of more than one gram of cocaine¹. Punishment was assessed at eight years, twenty-five years, and forty-five years confinement. These convictions were affirmed, Williams v. State, Nos. 07-00-185-CR, 07-00-

¹ A fourth conviction resulted in a probated sentence, which is not subject to review by this Court under Article 11.07, V.A.C.C.P.

186-CR, and 07-00-187-CR (Tex.App. - Amarillo, delivered October 16, 2000, no pet.).

Applicant contends, *inter alia*, that he was convicted solely on the testimony of undercover officer Tom Coleman, and copious impeachment material concerning Coleman was known to the State but not revealed to the defense. The trial court has not entered findings of fact or conclusions of law. We believe that Applicant has alleged facts which, if true, might entitle him to relief. It is this Court's opinion that additional facts need to be developed and that the trial court is the appropriate forum because this Court cannot hear evidence.

Therefore, it is necessary for the matter to be remanded to the trial court for resolution of the factual issues presented. The trial court may resolve those issues as set out in Article 11.07, § 3(d), V.A.C.C.P., in that it may order affidavits, depositions, or interrogatories from prosecutors, law enforcement personnel, and defense counsel, or it may order a hearing. In an appropriate case the trial court may rely on its personal recollection.

If the trial court elects to hold a hearing the court should first decide whether Applicant is indigent. If the trial court finds that Applicant is indigent, and the Applicant desires to be represented by counsel, the trial court shall then appoint an attorney to represent him at the hearing pursuant to the provisions of Article 26.04, V.A.C.C.P.

Following receipt of additional information the trial court should make findings of fact as to whether Officer Coleman's testimony concerning these offenses was corroborated by any other evidence, the nature of any such

evidence, what alleged impeachment information concerning Coleman was known to the State at the time of trial, and whether any of this alleged impeachment material was revealed to defense counsel before trial in these causes. The trial court should also make any further findings of fact and conclusions of law which it deems relevant and appropriate to the disposition of Applicant's applications for habeas corpus relief.

Since this Court does not hear evidence, Ex Parte Rodriguez, 169 Tex.Cr.R. 367, 334 S.W.2d 294 (Tex.Cr.App. 1960), this application for a post-conviction writ of habeas corpus will be held in abeyance pending the trial court's compliance with this order. Resolution of the issues shall be accomplished by the trial court within 90 days of the date of this order.² 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 returned to this Court within 120 days of the date of this order.³

DELIVERED: September 25, 2002
DO NOT PUBLISH

² In the event any continuances are granted, copies of the order granting the continuance should be provided to this Court.

³ Any extensions of this time period should be obtained from this Court.