IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-88,886-02

EX PARTE DARIUS LEMON, Applicant

ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 1247995-A IN THE 262ND DISTRICT COURT
FROM HARRIS COUNTY

***Per curiam*.**

O R D E R

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 capital murder and sentenced to imprisonment for life without parole. The Fourteenth Court of Appeals affirmed his conviction. *Lemon v. State*, No. 14-10-00616-CR (Tex. App.—Houston [14th Dist.] May 10, 2011) (not designated for publication).

Applicant alleges, among other things, ineffective assistance of trial and appellate counsel. The trial court signed a timely order designating issues, finding that there were controverted, previously unresolved facts material to the legality of Applicant's confinement. TEX. CODE CRIM.

PROC. art. 11.07 § 3(d). The writ record was forwarded after 180 days. TEX. R. APP. P. 73.5; *In re Lemon*, No. WR-88,886-01 (Tex. Crim. App. Oct. 10, 2018) (not designated for publication).

Applicant has alleged facts which, if true, could entitle him to relief. We remand this application to the 262nd District Court of Harris 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: January 30, 2019
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