

Review of Recent Juvenile Cases (2008)

by
The Honorable Pat Garza
Associate Judge
386th District Court
San Antonio, Texas

Habeas relief granted where trial counsel's performance considered deficient because counsel failed to know the law concerning use of a prior juvenile conviction for enhancement.[Ex Parte Hall](08-2-8)

On March 19, 2008, the Texas Court of Criminal Appeals accepted the recommendation of the trial court to grant a new punishment proceeding because counsel's performance was deficient in failing to know the law concerning the use of a prior juvenile conviction and that deficiency prejudiced Applicant.

¶ 08-2-8. **Ex Parte Hall**, Nos. AP-75,868 & AP-75,869, 2008 Tex.Crim.App.Unpub.Lexis 216 (Tex.Crim.App., 3/19/08)

Facts & Opinion: *Per curiam.*

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 murder and conspiracy to possess with intent to deliver 400 grams or more of cocaine and sentenced to sixty-five and thirty years' imprisonment, respectively. The First Court of Appeals affirmed his convictions. *Hall v. State*, 137 S.W.3d 847 (Tex. App. - Houston 2004, pet ref'd).

Applicant contends, *inter alia*, that his trial counsel rendered ineffective assistance because counsel failed to know the law concerning use of a prior juvenile conviction for enhancement and caused a plea of "true" to be entered to a juvenile conviction that was unavailable for enhancement.

The trial court has determined that trial counsel's performance was deficient and that this deficient performance prejudiced Applicant. The trial court recommends that relief be granted in the form of new punishment proceedings. This recommendation is supported by the record.

Conclusion: Habeas corpus relief is granted. The sentences in cause numbers 915388 and 920802 from the 228th District Court of Harris County are set aside, and Applicant is remanded to the custody of the Sheriff of Harris County for new punishment proceedings.

