

Review of Recent Juvenile Cases (2012)

by

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

Counsel rendered ineffective where prior juvenile adjudication was used as underlying offense in felon in possession charge.[Ex Parte Bell IV](12-3-6)

On May 23, 2012, the Texas Court of Criminal Appeals granted application for writ of habeas corpus where juvenile's counsel was rendered ineffective because he failed to investigate and learn that the alleged prior juvenile felony conviction was not available as the predicate felony for the offense of felon in possession of a firearm.

¶ 12-3-6. **Ex Parte Bell IV**, No AP-76808, 2012 WL 1882270 (Tex.Crim.App., 5/23/12).

Facts: On Application for a Writ of Habeas Corpus. Applicant pleaded guilty and was convicted of felon in possession of a firearm and sentenced to two years' imprisonment. He did not appeal his conviction. Applicant contends, inter alia, that his trial counsel rendered ineffective assistance because he failed to investigate the alleged prior felony conviction and learn that it was in fact a juvenile adjudication and was therefore not available as the predicate felony for this offense. TEX. FAM.CODE § 51.13.

Held: Relief granted

Opinion: The trial court has determined that trial counsel's performance was deficient and that such deficient performance prejudiced Applicant. We agree. Relief is granted.

Conclusion: The judgment in Cause No. 55,837 in the 27th District Court of Bell County is set aside, and Applicant is remanded to the custody of the Sheriff of Bell County to answer the charges as set out in the indictment.