



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-27,079-02

EX PARTE KENNETH RAY STRICKLAND, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 07CR0510-83-1 IN THE 122ND DISTRICT COURT
FROM GALVESTON COUNTY**

Per curiam.

ORDER

Applicant was convicted of attempted escape and sentenced to ninety-nine years' imprisonment. The Fourteenth Court of Appeals affirmed his conviction. *Strickland v. State*, No. 14-08-00011-CR (Tex. App. — Houston [14th Dist.] June 25, 2009) (not designated for publication). Applicant filed this application for a writ of habeas corpus in the county of conviction, and the district clerk forwarded it to this Court. *See* TEX. CODE CRIM. PROC. art. 11.07.

Applicant alleges that his trial counsel was ineffective for failing to move for a directed verdict on the basis that the State had not presented sufficient evidence to corroborate Applicant's custodial confession and satisfy the *corpus delicti* rule, and on the basis that the evidence proving commission of assault on a public servant did not amount to proof of the offense of attempted

escape. Applicant also alleges that trial counsel committed structural error by conceding during summation at the guilt/innocence phase that Applicant was attempting to escape from the Galveston County Jail, but arguing that he did not use or exhibit a deadly weapon or commit the offense of attempted capital murder with which he was also charged.

Applicant alleges that appellate counsel was ineffective for failing to argue on appeal that the evidence was legally insufficient to satisfy the *corpus delicti* rule and to support the conviction for attempted escape.

After conducting a hearing and hearing arguments, the trial court made findings of fact and conclusions of law, finding that both trial counsel and appellate counsel were ineffective and recommending that relief in the form of either a new trial or a new appeal be granted. However, the trial court's findings of fact, conclusions of law and recommendations are not supported by the record. Based on the this Court's independent review of the entire record, relief is denied.

Filed: July 1, 2020
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