

**Affirmed and Opinion filed January 13, 2000.**



**In The**

**Fourteenth Court of Appeals**

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**NO. 14-99-01068-CR**  
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**THOMAS LAMAR COCKERHAM, Appellant**

**V.**

**THE STATE OF TEXAS, Appellee**

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**On Appeal from the County Criminal Court at Law No. 6  
Harris County, Texas  
Trial Court Cause No. 99-34935**

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**OPINION**

Thomas Lamar Cockerham (Appellant) appeals from the trial court's habeas corpus judgment. After pleading guilty to possession of marijuana and escape from a police officer following his arrest, Appellant filed a post-conviction application for writ of habeas corpus in which he contended that his detention is illegal because his confinement and restraint are the result of involuntary pleas of guilty. Appellant requested that he be discharged from custody. Following an evidentiary hearing, Appellant's request was denied by the trial court. This appeal ensued.

The burden of persuasion in a writ of habeas corpus is on the applicant to prove his allegations by a preponderance of the evidence. *See Ex parte Lafon*, 977 S.W.2d 865, 867 (Tex.App.–Dallas 1998, no pet.). In reviewing the trial court’s decision, we view the evidence in the light most favorable to the ruling and accord great deference to the trial court’s findings and conclusions. *See id.* Absent a clear abuse of discretion, we accept the trial court’s decision whether to grant the relief requested in a habeas corpus application. *See id.*

No plea of guilty or no contest may be accepted by a trial court unless it is freely and voluntarily given. *See* TEX. CODE CRIM. PROC. ANN. art. 26.13(b) (Vernon 1989). At the evidentiary hearing, Appellant testified that his guilty pleas were not voluntarily made because he was under the influence of the prescription medication Xanax at the time of his guilty plea proceeding. Appellant testified that he obtained the medication from a fellow inmate of the Harris County Jail and that he took the medication “to ease [his] pain.” He testified that he took the medication “just once.” Appellant testified that he did not know the name of the inmate who gave him the medication. No other evidence was presented to the trial court. Appellant has not shown an abuse of discretion.

Further, we have not been presented with a record of Appellant’s guilty plea proceedings. The burden is on an appellant to be sure that a sufficient record is presented on appeal to show error. *See Montoya v. State*, 872 S.W.2d 24, 25 (Tex.App.–Houston [1<sup>st</sup> Dist.] 1994, no pet.). According to statements made by Appellant’s trial counsel during the evidentiary hearing, however, there is no record of Appellant’s plea proceeding. Without a record of Appellant’s plea, this court cannot determine whether Appellant’s plea was not entered voluntarily. *See id.* Thus, nothing is presented for our review.

The trial court's habeas corpus judgment is affirmed.

PER CURIAM

Judgment rendered and Opinion filed January 13, 2000.

Panel consists of Justices Edelman, Wittig, and Frost.

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