



## IN THE COURT OF CRIMINAL APPEALS OF TEXAS

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NO. WR-82,533-01

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**EX PARTE RICHARD MCDONALD, Applicant**

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**ON APPLICATION FOR A WRIT OF HABEAS CORPUS  
CAUSE NO. 12F0365-005A IN THE 5<sup>TH</sup> DISTRICT COURT  
FROM BOWIE COUNTY**

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*Per curiam.*

### OPINION

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 aggravated assault with serious bodily injury and sentenced to twelve years' imprisonment. He did not appeal his conviction.

Applicant contends that his plea was involuntary because a critical term of the plea agreement, that he be convicted of a crime that does not exist under Texas law, is impossible to perform. The trial court made findings of fact and conclusions of law, determining that Applicant

is entitled to relief. The trial court's recommendation is supported by the record. Applicant is entitled to relief. *Ex parte Huerta*, 692 S.W.2d 681 (Tex. Crim. App. 1985).

Relief is granted. The judgment in Cause No. 12F0365-005 in the 5<sup>th</sup> District Court of Bowie County is set aside, and Applicant is remanded to the custody of the Sheriff of Bowie County to answer the charges as set out in the indictment. The trial court shall issue any necessary bench warrant within 10 days after the mandate of this Court issues.

Copies of this opinion shall be sent to the Texas Department of Criminal Justice—Correctional Institutions Division and Pardons and Paroles Division.

Delivered: March 25, 2015  
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