



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-82,633-01

EX PARTE JONATHAN RUSSELL GUNTER, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. W-0900002 M (A) IN THE 194TH DISTRICT COURT
FROM DALLAS COUNTY**

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 robbery and sentenced to thirty years' imprisonment. The Fifth Court of Appeals deleted the deadly weapon finding in the judgment and affirmed the judgment, as reformed. *Gunter v. State*, No. 05-09-00324-CR (Tex. App.—Dallas Sept. 29, 2010) (not designated for publication).

In a single ground, Applicant contends that trial counsel failed to present mitigation evidence at the punishment hearing. After holding an evidentiary hearing, the trial court adopted Applicant's

proposed findings of fact and conclusions of law and concluded that counsel's conduct was deficient and Applicant was prejudiced. The trial court recommended that we grant Applicant a new punishment hearing.

We agree. Relief is granted. The punishment in cause number F-09-00002-M in the 194th District Court of Dallas County is set aside, and Applicant is remanded to the custody of the Sheriff of Dallas County for a new punishment hearing. 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: February 25, 2015
Do not publish