



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-82,733-01

EX PARTE LAURE GIBBONS FIELDS, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 28006CR IN THE 40TH DISTRICT COURT
FROM ELLIS 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 delivery of marihuana in an amount of five pounds or less but more than one-fourth ounces, and sentenced to five years' imprisonment. Applicant did not appeal her conviction.

Applicant contends that her sentence is illegal and that her plea was involuntary. Applicant was admonished for, and pled to, a third-degree felony. However, the offense charged is not a third-degree felony, but is instead a state jail felony, punishable by 180 days to two years' imprisonment

in a state jail facility. TEX. HEALTH & SAFETY CODE § 481.120(b)(3); TEX. PENAL CODE § 12.35(a).

The trial court finds that Applicant was admonished for the incorrect punishment range for her charged offense and that she accepted a plea bargain for a punishment outside the proper range of punishment for her offense.

Relief is granted. The judgment in Cause No. 28006CR in the 40th District Court of Ellis County is set aside, and Applicant is remanded to the custody of the Sheriff of Ellis 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: February 25, 2015
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