



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-85,576-02

EX PARTE OWEN JAY MONROE, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. DCR-5002-13-A IN THE 154TH DISTRICT COURT
FROM LAMB 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 possession of marijuana in an amount greater than five pounds but less than fifty pounds and sentenced to twelve years' imprisonment. He did not appeal his conviction.

In his writ application, Applicant alleges that counsel was ineffective and that his plea was involuntary. These grounds are without merit. However, while addressing Applicant's claims, the State discovered that Applicant's sentence is not authorized by law. Applicant

pled guilty a third degree offense as defined by the TEXAS HEALTH & SAFETY CODE 481.121(b)(4). The State candidly responds that Applicant's twelve year sentence is outside of the range of punishment for this offense. The convicting court agrees and recommends that relief be granted in the form of a new punishment hearing.

After an independent review of the record provided to this Court, we agree with the trial court's recommendation. Relief is granted. The punishment in Cause No. DCR-5002-13 in the 154th District Court of Lamb County is set aside, and Applicant is remanded to the custody of the Sheriff of Lamb County to await a new punishment hearing in this cause. The trial court shall issue any necessary bench warrant within 10 days after the mandate of this Court issues.

Filed: October 12, 2016

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