



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. PD-1283-15

MILTON RAY CRAWFORD, Appellant

v.

THE STATE OF TEXAS

**ON APPELLANT’S PETITION FOR DISCRETIONARY REVIEW
FROM THE TENTH COURT OF APPEALS
BRAZOS COUNTY**

RICHARDSON, J., filed a concurring opinion, in which NEWELL, J., joined.

CONCURRING OPINION

I agree with the majority that Appellant was properly sentenced as an habitual offender under Texas Penal Code Section 12.42(d) for this 2013 failure-to-register conviction. Appellant had two prior felony convictions for failing to register as a sex offender—one in 2007 and one in 2009. Thus, he had “previously been finally convicted of two felony offenses, and the second previous felony conviction [was] for an offense that occurred subsequent to the first previous conviction having become final.” TEX. PENAL

CODE § 12.42(d).

However, it is possible that the Legislature intended a different punishment enhancement outcome for multiple failure-to-register convictions. The sex offender statute, Chapter 62, specifically addresses punishment enhancement. This reflects the intent to enact a more specific enhancement scheme for sex offender registrants, which would control over the general enhancement statute in Section 12.42. *See Rawlings v. State*, 602 S.W.2d 268, 271 (Tex. Crim. App. 1980).

Nevertheless, Article 62.102(c) provides that the punishment for a person convicted of failing to register as a sex offender under Chapter 62 is increased to the next highest degree of felony if the person has been previously convicted “of an offense” under Chapter 62. By failing to include a provision regarding enhancement of a sentence for a person with multiple prior failure-to-register convictions, a person under such circumstances must be, by default, punished under Penal Code Section 12.42(d). It would be a stretch to read the statute any other way. If the intent was for Article 62.102(c) to be the exclusive enhancement statute covering a sex offender registrant’s punishment, even if that person had more than one prior failure-to-register conviction, then the statute should have said as much.

With these comments, I join the Court’s opinion.

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