



## IN THE COURT OF CRIMINAL APPEALS OF TEXAS

**NO. WR-84,238-01**

**EX PARTE SARINA SANCHEZ, Applicant**

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS  
CAUSE NO. 2013-CR-11692-W1 IN THE 226<sup>TH</sup> DISTRICT COURT  
BEXAR COUNTY**

*Per Curiam.* HERVEY and YEARY, JJ., did not participate.

### O P I N I O N

Pursuant to the provisions of Article 11.07 of the Texas Code of Criminal Procedure, Sarina Sanchez, applicant, has filed the instant application for a post-conviction writ of habeas corpus. *See* TEX. CODE CRIM. PROC. art. 11.07. Applicant seeks relief from her plea of guilty to the offense of intoxication manslaughter on the basis of a violation of her Sixth Amendment right to the effective assistance of counsel. *See* U.S. CONST. amend. VI. The State agrees with applicant that habeas relief should be granted. The habeas court recommends that we grant relief. We agree with the habeas court's recommendation and

grant relief.

In October 2014, applicant pleaded guilty to intoxication manslaughter pursuant to a plea agreement in exchange for a sentence of fifteen years in prison. *See* TEX. PENAL CODE § 49.08. The trial court accepted her guilty plea and sentenced her in accordance with the plea agreement. Applicant did not appeal. In June 2015, applicant filed the instant Article 11.07 habeas application in which she challenged the validity of her guilty plea due to various allegations of misconduct by her trial counsel. After reviewing applicant's pleadings and the record of an evidentiary hearing that was held by the habeas court, this Court ordered applicant's case filed and set to determine whether she should be granted relief. Subsequent to that order, new facts came to light that we believed might impact our decision in this case. Consequently, we remanded the case to the habeas court for further evidentiary development in light of these new facts. *See Ex parte Sanchez*, No. WR-84,238-01, 2016 WL 7234115, at \*1-2 (Tex. Crim. App. Dec. 14, 2016) (per curiam).

On remand, the habeas court held a second hearing on applicant's writ allegations. Following that hearing, the habeas court made findings of fact and conclusions of law in which it recommended that habeas relief be granted as to applicant's claim that trial counsel had labored under an actual conflict of interest due to his sexual misconduct towards applicant, thereby resulting in a denial of her Sixth Amendment right to the effective assistance of counsel.<sup>1</sup> The habeas court found that applicant's allegations were credible and

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<sup>1</sup> In applicant's third ground for relief in her amended application, she alleges that she was denied the effective assistance of counsel under the Sixth Amendment of the United States

that trial counsel's denials in his original affidavit were largely incredible.<sup>2</sup>

The State accepts applicant's claims of sexual abuse by her trial counsel, and it agrees that she is entitled to habeas relief. In support of applicant's claim for relief, the State proffered and the habeas court accepted as true that at least fifteen former female clients of trial counsel had come forward to provide the State with accounts of misconduct similar to that alleged by applicant. Furthermore, "numerous video depictions of sexual acts" were seized in evidence in relation to criminal investigations into trial counsel, including several that depicted applicant engaging in sexual intercourse with trial counsel. Thus, the habeas court found that "the allegations that trial counsel carried on a coercive sexual relationship [with applicant] are meritorious."

In its Conclusions of Law, the habeas court stated,

The Court finds the evidence presented to be sufficient to prove that an actual conflict of interest colored trial counsel's representation of Applicant. The Court finds that trial counsel was engaged in a coercive sexual relationship with Applicant, that trial counsel had access to and control over Applicant's criminal case, and that trial counsel had a political, financial, and personal interest which colored his representation of Applicant. The Court finds that this actual conflict of interest violated Applicant's Sixth Amendment rights.

We agree with this conclusion of law and the habeas court's recommendation that relief should be granted in this case on the basis of counsel's actual conflict of interest that

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Constitution. Applicant alleges that trial counsel had an actual conflict of interest which adversely affected his performance.

<sup>2</sup> Trial counsel was subpoenaed for the evidentiary hearing on remand. Trial counsel took the stand but invoked his Fifth Amendment right and declined to answer any questions.

deprived applicant of her constitutional right to counsel. *See Acosta v. State*, 233 S.W.3d 349, 354 (Tex. Crim. App. 2007); *Cuyler v. Sullivan*, 446 U.S. 335, 348 (1980). Relief is granted. The judgment in cause number 2013-CR-11692 from the 399<sup>th</sup> District Court of Bexar County is set aside, and applicant is remanded to the custody of the Sheriff of Bexar County to answer the charges against her.

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

Delivered: June 28, 2017

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