



# IN THE COURT OF CRIMINAL APPEALS OF TEXAS

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NO. WR-87,094-01

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**EX PARTE JAMES MICHAEL HUTTON, JR., Applicant**

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**ON APPLICATION FOR A WRIT OF HABEAS CORPUS  
CAUSE NO. 114-0889-15-A IN THE 114th DISTRICT COURT  
FROM SMITH COUNTY**

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*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 engaging in organized activity and sentenced to twenty years' imprisonment. He did not appeal his conviction.

Applicant contends that his plea was involuntary because his counsel gave him erroneous advice regarding parole eligibility in this case.

Trial counsel filed an affidavit with the trial court stating Applicant's allegations are true. Counsel states that he gave erroneous advice regarding parole eligibility and Applicant relied upon

that advice in deciding to plead guilty in this case. Based on that affidavit, the trial court determined that counsel was ineffective and Applicant's plea was involuntary in this case. Applicant is entitled to relief. *Ex parte Moussazadeh*, 361 S.W.3d 684 (Tex. Crim. App. 2012).

Relief is granted. The judgment in Cause No. 114-0889-15 in the 114th District Court of Smith County is set aside, and Applicant is remanded to the custody of the Sheriff of Smith 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: September 13, 2017  
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