



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-89,811-01

EX PARTE JUSTIN LOPEZ, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 09-09-12750-A IN THE 79TH DISTRICT COURT
FROM JIM WELLS COUNTY**

Per curiam. **KELLER, P.J. filed a dissenting opinion, joined by YEARY, J..**

OPINION

Applicant was convicted of capital murder and sentenced to life imprisonment. The Fourth Court of Appeals affirmed his conviction. *Lopez v. State*, No. 04-10-00864-CR (Tex. App.—San Antonio April 26, 2012)(not for publication). Applicant filed this application for a writ of habeas corpus in the county of conviction, and the district clerk forwarded it to this Court. *See* TEX. CODE CRIM. PROC. art. 11.07.

Applicant contends that trial counsel was ineffective by failing to investigate and present witnesses, failing to request a jury instruction on accomplice witness testimony, failing to consult experts, and failing to object to testimony. Based on the record, the trial court has determined that trial counsel's performance was deficient and that Applicant was prejudiced. The trial court also

found that false testimony was used to secure this conviction.

Relief is granted. *Ex parte Weinstein*, 421 S.W.3d 656 (Tex. Crim. App. 2014); *Strickland v. Washington*, 466 U.S. 668 (1984). The judgment in cause number 09-09-12750-CR in the 79th District Court of Jim Wells County is set aside, and Applicant is remanded to the custody of the Sheriff of Jim Wells County to answer the charges as set out in the indictment. The trial court shall issue any necessary bench warrant within ten days from the date of this Court's mandate.

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

Delivered: September 16, 2020
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