



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. AP-76,694

EX PARTE KENNETH NEAL RATLIFF, Applicant

ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 13735 IN THE 29TH DISTRICT COURT
FROM PALO PINTO COUNTY

Per curiam.

O P I N I O N

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 writ of habeas corpus. *Ex parte Young*, 418 S.W.2d 824, 826 (Tex. Crim. App. 1967). Applicant was convicted of assault of a public servant and sentenced to thirty years' imprisonment. The Eleventh Court of Appeals affirmed his conviction. *Ratliff v. State*, No. 11-08-00231-CR (Tex. App.—Eastland Jan. 22, 2009)(unpublished).

Applicant contends that his trial counsel rendered ineffective assistance by failing to investigate and challenge an improper enhancement paragraph.

The trial court has determined that trial counsel erred and Applicant was harmed by the error.

Applicant is entitled to relief. *Strickland v. Washington*, 466 U.S. 668, 687 (1984).

Relief is granted. The sentence in Cause No. 13735 in the 29th Judicial District Court of Palo Pinto County is set aside, and Applicant is remanded to the custody of the sheriff of Palo Pinto for a new sentencing hearing. The trial court shall issue any necessary bench warrant within 10 days after the mandate of this Court issues.

Delivered: November 23, 2011
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