



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. AP-76,755

EX PARTE CESAR PEREZ, Applicant

ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 20060D02118-409-1
IN THE 409TH DISTRICT COURT FROM EL PASO COUNTY

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 writ of habeas corpus. *Ex parte Young*, 418 S.W.2d 824, 826 (Tex. Crim. App. 1967). Applicant was convicted of tampering with physical evidence and sentenced to two years' imprisonment. He did not appeal his conviction.

Applicant contends that his plea was involuntary because counsel's erroneous advice as to his eligibility for deportation.

Trial counsel filed an affidavit with the trial court. Based on that affidavit and a review of the record, the trial court determined that counsel gave erroneous advice as to the possibility of

deportation and that Applicant was harmed by that erroneous advice. Applicant is entitled to relief. *Ex parte Morrow*, 952 S.W.2d 530 (Tex. Crim. App. 1997).

Relief is granted. The judgment in Cause No. 20060D02118 in the 409th Judicial District Court of El Paso County is set aside, and Applicant is remanded to the custody of the sheriff of El Paso 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: March 28, 2012
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