IN THE COURT OF CRIMINAL APPEALS
OF TEXAS

NO. AP-76,779

EX PARTE JAMES ALLEN PELLOAT, Applicant

ON APPLICATION FOR WRIT OF HABEAS CORPUS
CAUSE NO. 5594 IN THE JUDICIAL DISTRICT COURT 1A
FROM NEWTON 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 pleaded guilty pursuant to a "package" plea agreement to two charges of sexual assault of a child, and two charges of improper relationship between educator and student. Pursuant to the plea agreement, Applicant was sentenced to twenty years' imprisonment for each offense, with the sentences in cause numbers 5992 and 5617 to run consecutively, and the remaining sentences to run concurrently. He did not appeal his convictions.

Applicant contends, *inter alia*, that his plea was involuntary because trial counsel failed to advise him that one of the charges was not an offense at the time it was committed. We remanded this application to the trial court for findings of fact and conclusions of law.

Trial counsel and the trial prosecutor filed affidavits with the trial court. Based on those affidavits and the documents in the supplemental record, the trial court has determined that the complainant in the -03 case was no longer a student at the school where Applicant taught at the time the statute making improper relationship between educator and student an offense was enacted. Applicant is entitled to relief. *Ex parte Huerta*, 692 S.W.2d 681 (Tex. Crim. App. 1985).

Relief is granted. The judgment in Cause No. 5594 in the Judicial District Court 1A of Newton County is set aside. The remainder of the judgments and sentences stand pursuant to the plea agreement.

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

Delivered: April 25, 2012
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