



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. AP-76,884

EX PARTE BEULAH JOHNSON, Applicant

ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 09-08009-A IN THE CRIMINAL DISTRICT COURT
FROM JEFFERSON 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 forgery and was sentenced to three years' imprisonment.

In her writ application, Applicant contends, *inter alia*, that her sentence is not authorized by law. She argues the convictions used to enhance the punishment range were not sequential because the second previous offense occurred before and not after the first previous conviction had become final. *See* TEX. PENAL CODE § 12.42(a)(2). The convicting court agrees and recommends that relief

be granted. After an independent review of the record provided to this Court, we agree with the convicting court's recommendation.

Applicant's unlawful sentence claim is properly raised before this Court, and relief is granted. *See Ex parte Rich*, 194 S.W.3d 508, 511 (Tex. Crim. App. 2006). "[T]he proper remedy is to allow Applicant to withdraw [her] plea and remand the case to the trial court, putting both parties back in their original positions before they entered into the plea bargain." *Id.* at 514-15. The judgment in Cause No. 09-08009, *The State of Texas v. Beulah Johnson a/k/a Beulah Lee Johnson*, in the Criminal District Court of Jefferson County is set aside, and Applicant is remanded to the custody of the Sheriff of Jefferson 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 26, 2012

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