



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. AP-76,913

EX PARTE KENTRELL D. THURMAN, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 892736 IN THE 177TH DISTRICT COURT
FROM HARRIS 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 a writ of habeas corpus. *Ex parte Young*, 418 S.W.2d 824, 826 (Tex. Crim. App. 1967). Applicant was convicted of aggravated robbery and sentenced to forty-two years' imprisonment. He did not appeal his conviction.

Applicant contends that a state jail conviction was improperly used to enhance this felony conviction. A state jail conviction cannot be used to enhance a first degree felony. TEX. PENAL CODE §12.42(c)(1). The trial court determined that Applicant is entitled to relief. We agree.

Relief is granted. The sentence in Cause No. 892736 in the 177th District Court of Harris County is set aside, and Applicant is remanded to the custody of the Sheriff of Harris County for a

new punishment hearing. 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: November 7, 2012
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