



## IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-72,309-03

**EX PARTE KYLE DEWAYNE KUPPER, Applicant**

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS  
CAUSE NO. 380-81069-02 IN THE 380TH DISTRICT COURT  
FROM COLLIN COUNTY**

*Per curiam.*

### ORDER

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 four counts of aggravated sexual assault and sentenced to thirty-eight years' imprisonment on each count. The Fifth Court of Appeals affirmed his convictions. *Kupper v. State*, No. 05-03-00486-CR (Tex. App.—Dallas Jan. 14, 2004, pet. ref'd).

Applicant contends, among other things, that counsel failed to convey a plea offer of twenty years that the State made on the afternoon of March 7, 2003. We remanded this application on September 28, 2011, and directed the trial court to resolve inconsistencies in the record and to

determine whether trial counsel rendered ineffective assistance. On remand, after holding a live evidentiary hearing, the trial court made findings of fact and conclusions of law and recommended that we deny relief. We agree with the trial court's recommendation but decline to adopt its findings and conclusions on the doctrine of laches. Relief is denied.

Filed: April 25, 2012

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