



## IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-77,856-01

**EX PARTE DIAUNTA SHERELL MELVIN, Applicant**

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS  
CAUSE NO. 30085 IN THE 3RD DISTRICT COURT  
FROM ANDERSON 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, theft, and possession of a controlled substance and was sentenced to imprisonment for forty-five, twenty, and two years, respectively. The Twelfth Court of Appeals affirmed her convictions. *Melvin v. State*, No. 12-10-00153-CR (Tex. App.—Tyler 2011, no pet.).

Applicant contends that trial counsel rendered ineffective assistance. We remanded this application, and after holding a live evidentiary hearing, the trial court concluded that counsel's conduct was deficient and that there is a reasonable probability that Applicant's punishment would

have been different but for counsel's deficient conduct. We agree. Relief is granted. Applicant's sentences for aggravated robbery and theft in cause number 30085 in the 3rd District Court of Anderson County are set aside, and Applicant is remanded to the custody of the Sheriff of Anderson County for a new punishment hearing in these counts only. Her sentence for possession of a controlled substance has discharged. Accordingly, this count is dismissed. TEX. CODE CRIM. PROC. art. 11.07, § 3(c). 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: May 8, 2013  
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