



## IN THE COURT OF CRIMINAL APPEALS OF TEXAS

**NO. WR-37,070-02**

**EX PARTE KENNETH VELA, Applicant**

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS  
CAUSE NO. 90-CR-4364 IN THE 144<sup>TH</sup> DISTRICT COURT  
FROM BEXAR COUNTY**

*Per curiam.* HERVEY, J. *not participating.*

### **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 possession of heroin and sentenced to sixty years' imprisonment. His conviction was affirmed on appeal. *Vela v. State*, No. 04-91-00124-CR (Tex. App.—San Antonio May 26, 1993).

The sentence in this case was ordered to run consecutively to the sentence in cause number 90-CR-5423. The sentence in cause number 90-CR-5423 was overturned on direct appeal and the cause was remanded for a new punishment hearing. *Vela v. State*, No. 04-91-00125-CR (Tex.

App.–San Antonio February 16, 1994). Applicant contends that the sentence in cause number 90-CR-5423 ceased to operate when the appellate court remanded for a new sentencing hearing. We order that this application be filed and set for submission to determine whether an appellate court's order overturning a sentence causes that sentence to cease to operate when it is part of a stacked series. The parties shall brief these issues. The Office of the General Counsel for the Texas Department of Criminal Justice is also invited to brief the issues.

The trial court shall determine whether Applicant is indigent. If Applicant is indigent and desires to be represented by counsel, the trial court shall appoint an attorney to represent Applicant. TEX. CODE CRIM. PROC. art 26.04. The trial court shall send to this Court, within 30 days of the date of this order, a supplemental transcript containing either the order appointing counsel or a statement that Applicant is not indigent.

Applicant's brief shall be filed with this Court within 60 days of the date of this order. The State's response shall be filed within 30 days after the filing of Applicant's brief.

Filed: June 11, 2014  
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