



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-80,114-01

EX PARTE HAROLD “BUD” ERIC HAM, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 3477-A IN THE 100TH DISTRICT COURT
FROM HALL COUNTY**

Per curiam. KELLER, P.J., dissented.

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 murder and sentenced to ninety-nine years’ imprisonment. The Seventh Court of Appeals affirmed his conviction. *Ham v. State*, No. 07-09-00331-CR (Tex. App.—Amarillo 2011, pet. ref’d).

Applicant contends, among other things, that counsel advised him that he was eligible for community supervision from the jury. The trial court has determined that counsel’s advice was deficient, Applicant would have accepted the State’s plea offer but for counsel’s deficient advice, the State would not have withdrawn its plea offer, and the trial court would have accepted the offer.

The trial court recommended that we grant relief. Relief is granted. *See Lafler v. Cooper*, 132 S. Ct. 1376 (2012). The judgment in cause number 3477 in the 100th District Court of Hall County is set aside, and Applicant is remanded to the custody of the Sheriff of Hall County. The State shall reoffer its punishment recommendation of forty-five years in prison. 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: October 8, 2014
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