



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-81,163-01

EX PARTE PEDRO CHAVEZ VASQUEZ, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 39736-01-B IN THE 181ST DISTRICT COURT
FROM POTTER 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 robbery and sentenced to twenty years' imprisonment. He did not appeal his conviction.

Applicant contends that the trial court considered medical records from an unrelated victim, that were inadvertently placed in his file, to impose a twenty year sentence on Applicant. The trial court has entered findings of fact and conclusions of law that the medical records had no relevance to Applicant and were improperly considered by the trial court. The trial court also finds the court

assessed a greater amount of time than the court would have assessed absent the medical records. The trial court finds that the use of the medical records in sentencing Applicant constituted a due process violation. We agree.

Relief is granted. The judgment in Cause No. 39736-01-B in the 181st District Court of Potter County is set aside, and Applicant is remanded to the trial court to answer the motion to proceed with adjudication of guilt on the original charge.

Copies of this opinion shall be sent to the Texas Department of Criminal Justice—Correctional Institutions Division and Pardons and Paroles Division.

Delivered: November 26, 2014
Do Not Publish