



## IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-82,074-01

**EX PARTE RICKIE PAUL DOWLEARN II, Applicant**

ON APPLICATION FOR A WRIT OF HABEAS CORPUS  
CAUSE NO. 13-11-11974-CR IN THE 435<sup>TH</sup> DISTRICT COURT  
FROM MONTGOMERY 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 theft and sentenced to three years' imprisonment. He did not appeal his conviction.

Applicant contends that his sentence is illegal and counsel was ineffective for allowing the illegal sentence without objection. The state agrees that Applicant's sentence is illegal.

The trial court determined that Applicant's sentence is illegal because it exceeds the statutory punishment range. The trial court's findings are supported by the record. *Ex parte Rich*, 194 S.W.3d

508, 514 (Tex. Crim. App. 2006). Applicant is entitled to relief.

Relief is granted. The judgment in Cause No. 13-11-11974-CR in the 435<sup>th</sup> District Court of Montgomery County is set aside, and Applicant is remanded to the custody of the Sheriff of Montgomery County to answer the charges as set out in the indictment. 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 1, 2014  
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