



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-80,458-01

EX PARTE WALTER AARON HAMILTON, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 2006CR3927-W1 IN THE 226TH DISTRICT COURT
FROM BEXAR 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 four counts of aggravated sexual assault, one count of aggravated robbery, and one count of aggravated kidnapping. According to the judgments in the record, he was sentenced to sixty years' imprisonment on each count.¹ The Fourth Court of Appeals affirmed his convictions. *Hamilton v. State*, 300 S.W.3d 14 (Tex. App.—San Antonio 2009).

¹This appears to be a clerical mistake. According to the punishment verdicts, Applicant was sentenced to sixty years in the first and sixth counts only.

Applicant contends, among other things, that he received multiple punishments in violation of the Double Jeopardy Clause. The trial court made findings of fact and conclusions of law and determined that although there was a single instance of penile penetration, Applicant was convicted of both intentionally and knowingly causing the penetration of the complainant's sexual organ by his sexual organ, and intentionally and knowingly causing the complainant's sexual organ to contact his sexual organ.

We find that Applicant received multiple punishments in violation of the Double Jeopardy Clause. *Aekins v. State*, 447 S.W.3d 270 (Tex. Crim. App. 2014). Relief is granted. Count two in cause number 2006CR3927 in the 226th District Court of Bexar County is set aside. All other relief is denied.

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

Delivered: March 18, 2015
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