



## IN THE COURT OF CRIMINAL APPEALS OF TEXAS

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NO. WR-82,239-03

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**EX PARTE EYNEL AROLD GUZMAN, Applicant**

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**ON APPLICATION FOR A WRIT OF HABEAS CORPUS  
CAUSE NO. W219-81460-08-HC IN THE 219<sup>TH</sup> DISTRICT COURT  
FROM COLLIN COUNTY**

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*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 one count of aggravated sexual assault of a child and one count of indecency with a child and sentenced to twenty-five years' and fifteen years' imprisonment, respectively. The Fifth Court of Appeals affirmed his convictions. *Guzman v. State*, No. 05-09-01043-CR (Tex. App.– Dallas Mar. 15, 2011)(not designated for publication).

Applicant's writ application raised six grounds of relief, including claims of ineffective

assistance of counsel, involuntary plea, *Brady* violation, insufficient evidence, out-of-time appeal, and double jeopardy. This Court remanded the case for further development of the probable double jeopardy issue.

The trial court has determined Applicant's conviction for indecency with a child is based on the same actions and same victim as his conviction for aggravated sexual assault of a child and therefore violates double jeopardy. *Patterson v. State*, 152 S.W.3d 88 (Tex. Crim. App. 2004). We agree that Applicant has suffered multiple punishments for the same offense. *Ex parte Cavazos*, 203 S.W.3d 333, 337 (Tex. Crim. App. 2007). Relief is granted. The judgment in count two of Cause No. 219-81460-08 in the 219<sup>th</sup> District Court of Collin County is vacated and set aside. All remaining issues are denied.

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

Delivered: September 16, 2015  
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