



## IN THE COURT OF CRIMINAL APPEALS OF TEXAS

**NO. WR-85,165-01**

**EX PARTE ROY EUGENE USSERY, Applicant**

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS  
CAUSE NO. 955938-A IN THE 184<sup>TH</sup> DISTRICT COURT  
FROM HARRIS 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 failure to comply with sex offender registration requirements and sentenced to two years' imprisonment. He did not appeal his conviction.

Applicant contends that his plea was involuntary, his counsel was ineffective, and his conviction was illegal because he was prosecuted and sentenced for a third degree felony when the offense was really a state jail felony.

Both the State and the trial court agree that Applicant is entitled to relief. *Ex parte Huerta*, 692 S.W.2d 681 (Tex. Crim. App. 1985). We agree.

Relief is granted. The judgment in Cause No. 955938 in the 184<sup>th</sup> District Court of Harris County is set aside, and Applicant is remanded to the custody of the Sheriff of Harris 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: June 22, 2016  
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