



## IN THE COURT OF CRIMINAL APPEALS OF TEXAS

**NO. WR-85,864-01**

**EX PARTE AARON MICHAEL POPE, Applicant**

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS  
CAUSE NO. CR 40,795-A IN THE 142<sup>ND</sup> DISTRICT COURT  
FROM MIDLAND 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 register as a sex offender and sentenced to five years' imprisonment. He did not appeal his conviction.

Applicant contends that his sentence is above the statutory maximum and is therefore illegal. Applicant had been previously adjudicated delinquent for a sex offense as a juvenile. He was therefore required to register as a sex offender for ten years. TEX. CODE CRIM. PRO. Art. 62.101(c)(1). The violation of that requirement is a state jail felony. TEX. CODE CRIM. PRO. Art.

62.102(a)(1). Applicant was therefore sentenced outside of the statutory maximum for the offense. The State and trial court agree that Applicant is entitled to relief. Applicant is entitled to relief. *Mizell v. State*, 119 S.W.3d 804, 806 (Tex. Crim. App. 2003).

Relief is granted. The judgment in Cause No. 40,795 in the 142<sup>nd</sup> District Court of Midland County is set aside, and Applicant is remanded to the custody of the Sheriff of Midland 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: November 2, 2016  
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