



## IN THE COURT OF CRIMINAL APPEALS OF TEXAS

**NO. WR-85,439-01**

**EX PARTE JUAN QUINTERO, Applicant**

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS  
CAUSE NO. 1368190-A IN THE 228<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 aggravated sexual assault of a child and sentenced to six years' imprisonment. The Fourteenth Court of Appeals affirmed his conviction. *Quintero v. State*, 467 S.W.3d 671 (Tex. App.—Houston [14<sup>th</sup> Dist.] 2015).

Applicant contends that his trial counsel rendered ineffective assistance because, among other things, counsel did not undertake an independent investigation of the facts. Applicant also alleges that the complainant's recantation proves he is actually innocent of the offense.

After a live hearing, the trial court determined that trial counsel's performance was deficient and that such deficient performance prejudiced Applicant. The trial court also determined that Applicant did not prove he is actually innocent. We agree with the trial court's findings and conclusions. Applicant has not carried his actual innocence burden, but he has shown that counsel's deficiencies caused his guilty plea to be involuntary. Relief is granted. The judgment in Cause No. 1368190-A in the 228<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: September 20, 2017  
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