



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-85,791-01

EX PARTE JOSE GUEVARA-MOLINA, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. W12-30529-I(A) IN THE CRIMINAL DISTRICT COURT NUMBER TWO
FROM DALLAS 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 driving while intoxicated and sentenced to sixteen years' imprisonment. The Fifth Court of Appeals dismissed Applicant's appeal for want of jurisdiction. *Guevara-Molina v. State*, No. 05-14-00839-CR (Tex. App.—Dallas July 7, 2014) (not designated for publication).

Applicant contends, *inter alia*, that his plea was involuntary and his sentence is illegal in this case. We remanded this application to the trial court for findings of fact and conclusions of law.

Based on the record in this case, the trial court determined that Applicant was improperly admonished of the punishment range in this case. Applicant is entitled to relief. *Ex parte Huerta*, 692 S.W.2d 681 (Tex. Crim. App. 1985). The trial court also found that Applicant was sentenced below the minimum punishment range allowed in this case.¹

Relief is granted. The judgment in Cause No. F12-30529-I in the Criminal District Court Number Two District Court of Dallas County is set aside, and Applicant is remanded to the custody of the Sheriff of Dallas 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 13, 2017
Do not publish

¹ The judgment in this case reflects that Applicant was convicted of a third degree felony driving while intoxicated with no affirmative findings regarding the enhancement paragraphs set out in the indictment. However, this appears to be a clerical error on the judgment as the record in this case shows Applicant entered an open plea of guilty and a plea of true to the enhancement paragraphs set out in the indictment. He was subsequently found guilty by the magistrate and the case was passed over to the district court for sentencing.