



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-86,153-01

EX PARTE RICKY THATCHER, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 93-14-A IN THE 2ND/25TH DISTRICT COURT
FROM GONZALEZ 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 engaging in organized criminal activity and sentenced to ten years' imprisonment. He did not appeal his conviction.

We remanded this application to determine whether Applicant was properly convicted of engaging in organized criminal activity. On remand, the trial court found that Applicant was not because the underlying felony alleged in the indictment, criminal mischief, is not listed in § 71.02(a)

of the Penal Code. The trial court recommended that we set aside Applicant's conviction.

Relief is granted. The judgment in cause number 93-14-A in the 2nd/25th District Court of Gonzales County is set aside, and Applicant is remanded to the custody of the Sheriff of Gonzales 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: February 15, 2017
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