



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-86,333-01

EX PARTE STEPHEN JOSEPH CHAMPION, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 114-0886-15-A IN THE 114TH DISTRICT COURT
FROM SMITH 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 charged with engaging in organized criminal activity, with an affirmative deadly weapon allegation. He pleaded guilty in exchange for a twenty-year sentence, and the State agreed to abandon the deadly weapon allegation. He did not appeal his conviction.

Applicant contends that his plea was involuntary because he was erroneously advised by trial counsel regarding parole eligibility. According to Applicant, he believed that the abandonment of

the deadly weapon allegation would result in his being eligible for parole after serving one quarter of his sentence. Trial counsel has submitted an affidavit in which he states that he was unaware at the time of Applicant's plea that the law regarding parole eligibility for the offense of engaging in organized criminal activity had changed, and that Applicant would not be eligible for parole until he had served one half of his sentence, regardless of whether or not there was an affirmative deadly weapon finding. *See* TEX. GOV'T CODE §508.145(d)(1). Applicant alleges that parole eligibility was a crucial element of his decision to plead guilty, and that he would not have pleaded guilty but for the erroneous belief that he would be eligible for parole after serving one quarter of his sentence.

The trial court has determined that Applicant relied on the erroneous advice regarding parole eligibility, and that he would not have agreed to plead guilty had he known that the offense to which he was pleading guilty would be treated as an "aggravated" offense for parole eligibility purposes even though the deadly weapon allegation had been abandoned. Applicant is entitled to relief. *Ex parte Moussazadeh*, 361 S.W.3d 684, 692 (Tex. Crim. App. 2012).

Relief is granted. The judgment in Cause No. 114-0886-15 in the 114th District Court of Smith County is set aside, and Applicant is remanded to the custody of the Sheriff of Smith 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
Do not publish