



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-86,731-01

EX PARTE MARCOS DESHAWN BROWN, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 15-01-05579-CRW IN THE 143RD DISTRICT COURT
FROM WARD 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 burglary of a building and sentenced to six years' imprisonment. Applicant did not appeal his conviction.

Applicant contends that his sentence is illegal. Applicant was admonished for, and pled to, a third-degree felony. However, the offense charged is not a third-degree felony, but is instead a state jail felony, punishable by 180 days to two years' imprisonment in a state jail facility. TEX. PENAL CODE § 30.02(a)(1); TEX. PENAL CODE § 12.35(a). The trial court finds that Applicant was

admonished for the incorrect punishment range for his charged offense and that his sentence is outside the proper range of punishment for his offense.

Relief is granted. The judgment in Cause No. 15-02-05579-CRW in the 143rd District Court of Ward County is set aside, and Applicant is remanded to the custody of the Sheriff of Ward 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: May 17, 2017
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