



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-88,912-01

EX PARTE MARCOS HIGINIO MORALES, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. CR-1672-16-I(1) IN THE 398TH DISTRICT COURT
FROM HIDALGO 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 habitation and sentenced to four years' imprisonment. He did not appeal his conviction.

Applicant contends that his trial counsel rendered ineffective assistance by failing to investigate jail records to establish that Applicant was incarcerated at the time of the offense, and therefore could not have committed this crime.

The trial court has determined that trial counsel's performance was deficient in that counsel

failed to investigate the jail records and that such deficient performance prejudiced Applicant. Relief is granted. The judgment in Cause No. CR-1672-16-I(1) in the 398th District Court of Hidalgo County is set aside, and Applicant is remanded to the custody of the Sheriff of Hidalgo 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 19, 2018
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