



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NOS. WR-88,998-03 AND WR-88,998-04

EX PARTE CHRISTOPHER ALLEN DICKEY, Applicant

**ON APPLICATIONS FOR WRITS OF HABEAS CORPUS
CAUSE NOS. W219-81284-2016-HC2 AND W219-81285-2016-HC2
IN THE 219TH DISTRICT COURT
FROM COLLIN COUNTY**

Per curiam. YEARY, J., dissenting.

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 these applications for writs of habeas corpus. *Ex parte Young*, 418 S.W.2d 824, 826 (Tex. Crim. App. 1967). Applicant pleaded guilty to two charges of assault with family violence, and was sentenced to two three-year sentences, to run concurrently. He did not appeal his convictions.

Applicant contends that his pleas were involuntary because the plea agreement cannot be followed. Specifically, Applicant alleges that during the same proceeding he pleaded guilty to a third charge of possession of a controlled substance in exchange for two years' state jail, probated for five

years, which was also to run concurrently with these two sentences. A condition of Applicant's probation in the third case was that he complete a SAFP program. Applicant alleges that a specific element of the plea agreement in all three cases was that he would be transferred to the SAFP program first, and would complete that program before being transferred to TDCJ to serve the remainder of these two sentences. Applicant alleges that the trial court ordered him to be transferred to the SAFP program as soon as a bed became available, but that he learned more than thirty days after his plea that TDCJ would not transfer him to SAFP until after he had finished serving his prison sentences. Applicant alleges that he would not have pleaded guilty in these two cases had he known that TDCJ could not be required to transfer him to SAFP before serving his prison sentences.

The State agrees that Applicant's pleas were not knowingly and voluntarily entered, and the trial court finds that Applicant would not have pleaded guilty had he known that it was impossible for him to first attend SAFP treatment. The trial court concludes that Applicant's pleas were involuntary, and recommends that relief be granted. Applicant is entitled to relief. *Ex parte Huerta*, 692 S.W.2d 681 (Tex. Crim. App. 1985).

Relief is granted. The judgments in Cause Nos. 219-81284-2016 and 219-81285-2016 in the 219th District Court of Collin County are set aside, and Applicant is remanded to the custody of the Sheriff of Collin County to answer the charges as set out in the indictments. 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.