



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NOS.

WR-89,313-01

WR-89,313-02

WR-89,313-03

EX PARTE CHAD PIERCE, Applicant

**ON APPLICATIONS FOR WRITS OF HABEAS CORPUS
CAUSE NOS. 87498-A, 87499-A, AND 87500-A
IN THE 252ND DISTRICT COURT FROM JEFFERSON COUNTY**

Per curiam. Yeary, J., dissented.

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 was convicted of unauthorized use of a motor vehicle, evading in a vehicle, and forgery. Applicant was initially sentenced to concurrent terms of 18 months in the State Jail. Over a month later, the trial court—finding that these 18-month judgments were void—had Applicant returned to Jefferson County from the State Jail, held a second punishment hearing, and sentenced Applicant to 20 years in prison in

each case, and the trial court cumulated the sentences to 60 years in *nunc* judgments. Applicant's direct appeals were dismissed because, according to the trial court, each judgment was from "a plea bargain case, and the Defendant has NO right of appeal" (emphasis in original). *Pierce v. State*, Nos. 09-04-00440-CR, 09-04-00441-CR, 09-04-00442-CR (Tex. App.—Beaumont del. Nov. 24, 2004).

Applicant contends that the trial court lacked jurisdiction to enter the *nunc* judgments sentencing him to 20 years in each case, that the 20-year sentences are unlawful and void and violate double jeopardy, that he was denied due process and a direct appeal, and that his trial and appellate counsel provided ineffective assistance.

When a defendant's deferred adjudication probation is revoked, all proceedings continue as if the adjudication of guilt had never been deferred. *Ditto v. State*, 988 S.W.2d 236, 239 (Tex. Crim. App. 1999). The State, in recommending the 18-month sentences upon revocation, abandoned the second-degree enhancements, and the 18-month sentences were within the punishment range. *See, e.g., Warner v. State*, No. 05-99-00216-CR, 2001 WL 92701 (Tex. App.—Dallas Feb. 5, 2001). After an independent review of the record, this Court holds that the three 20-year *nunc* judgments are void, and the initial 18-month judgments are not void.

Relief is granted. The three 20-year *nunc* judgments in Cause Nos. 87498, 87499, and 87500, in the 252nd District Court of Jefferson County, are set aside, and the three 18-month judgments in these causes are reinstated. Copies of this opinion shall be sent to the Texas Department of Criminal Justice-Correctional Institutions Division and Pardons and Paroles Division.

Delivered: February 13, 2019
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