



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-89,608-01

EX PARTE MILTON SAVAGE JR., Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. F-2004-1606-E-WHC 1 IN THE 367TH DISTRICT COURT
FROM DENTON 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 aggravated assault as a habitual felon and sentenced to twenty-five years' imprisonment and a \$5000 fine.

Applicant contends, *inter alia*, that the \$5000 fine is not authorized as punishment under the habitual-felon statute. *See* TEX. PENAL CODE 12.42(d). He is correct. The trial court, with the State's agreement, "recommends that Applicant receive relief by having the jury's verdict reformed by removing the unauthorized fine from Applicant's sentence." The recommendation is supported by the habeas record and applicable law. *See* TEX. CODE CRIM. PROC. art. 37.10(b).

We hold that the \$5000 fine imposed in cause no. F-2004-1606-E, *The State of Texas v. Milton Savage, Jr.*, from the 367th District Court of Denton County is vacated. The 25-year sentence remains unchanged. A review of Applicant's remaining claims shows that they lack merit. These claims are denied.

Copies of this opinion shall be sent to the Texas Department of Criminal Justice-Correctional Institutions Division and Pardons and Paroles Division.

Delivered: September 11, 2019
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