

IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-90,729-01

EX PARTE DONALD MILLER BALL, Applicant

ON APPLICATION FOR A WRIT OF HABEAS CORPUS CAUSE NO. 2012-0434-A IN THE 217TH DISTRICT COURT FROM ANGELINA COUNTY

Per curiam. Keller, P.J., Yeary, and Slaughter, JJ. dissent.

OPINION

Applicant pleaded guilty to aggravated sexual assault of a child with a punishment cap agreement of thirty years, and was sentenced to twenty-five years' imprisonment. The Twelfth Court of Appeals dismissed the appeal. *Ball v. State*, No. 12-13-00190-CR (Tex. App.—Tyler Aug. 20, 2014)(not designated for publication). Applicant filed this application for a writ of habeas corpus in the county of conviction, and the district clerk forwarded it to this Court. *See* Tex. Code Crim. Proc. art. 11.07.

Applicant contends, among other things, that counsel was ineffective because he failed to hire and consult with a sex offender treatment expert to support his punishment case. Based on the record, the trial court has determined that counsel's performance was deficient and that Applicant was

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prejudiced.

Relief is granted. Strickland v. Washington, 466 U.S. 668 (1984). The sentence in cause

number 2012-0434 in the 217th District Court of Angelina County is set aside, and Applicant is

remanded to the custody of the Sheriff of Angelina County for a new punishment hearing. The trial

court shall issue any necessary bench warrant within ten days from the date of this Court's mandate.

Copies of this opinion shall be sent to the Texas Department of Criminal Justice-Correctional

Institutions Division and the Board of Pardons and Paroles.

Delivered:

September 16, 2020

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