



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-91,432-01

EX PARTE PAUL ANTHONY WELCH, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 21967-A IN THE 258TH DISTRICT COURT
FROM POLK COUNTY**

Per curiam. KEEL, and WALKER, JJ. would grant an entire new trial. YEARY, J. filed a dissenting opinion joined by SLAUGHTER, J.

OPINION

Applicant was convicted of attempted capital murder and sentenced to fifty years' imprisonment. The Fourteenth Court of Appeals affirmed his conviction. *Welch v. State*, No. 14-12-00430-CR (Tex. App.—Houston [14th] April 25, 2013)(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 that trial counsel was ineffective because he failed to investigate and present mitigating evidence, specifically not calling favorable witnesses to testify during sentencing. Based on the record, the trial court has determined that trial counsel's performance was deficient and

that Applicant was prejudiced.

Relief is granted. *Strickland v. Washington*, 466 U.S. 668 (1984). The sentence in cause number 21967 in the 258th District Court of Polk County is set aside, and Applicant is remanded to the custody of the Sheriff of Polk County for a new sentencing 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: December 9, 2020
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