



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-89,945-02

EX PARTE JAIME CLARK, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. CR04004189-H(2) IN THE 347TH DISTRICT COURT
FROM NUECES COUNTY**

Per curiam. YEARY, J., concurred.

OPINION

Applicant pleaded guilty to five counts of sexual assault of a child and was sentenced to ten years deferred probation. Applicant's probation was later revoked and he was sentenced to twenty years' imprisonment on each of the five counts, with one count to run consecutively with the other four. The Thirteenth Court of Appeals affirmed his conviction. *Clark v. State*, No. 13-12-00552-CR (Tex. App.—Corpus Christi-Edinburg, June 27, 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 his plea was involuntary because trial counsel erroneously advised Applicant to enter a plea of "true" to several of the State's allegations in its amended motion to

adjudicate despite having information and evidence contrary to a plea of true. Based on the record, the trial court has determined that trial counsel's performance was deficient and that Applicant would have insisted on a trial but for counsel's deficient performance.

Relief is granted. *Hill v. Lockhart*, 474 U.S. 52 (1985); *Ex parte Argent*, 393 S.W.3d 781 (Tex. Crim. App. 2013). The judgment in cause number 04-CR-4189-H in the 347th District Court of Nueces County is set aside, and Applicant is remanded to the custody of the Sheriff of Nueces County to answer the charges as set out in the indictment. 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: January 27, 2021
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