



# IN THE COURT OF CRIMINAL APPEALS OF TEXAS

**NO. WR-90,285-02**

**EX PARTE MARTIN GUTIERREZ JR., Applicant**

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS  
CAUSE NO. W15-12273-J(A) IN CRIMINAL DISTRICT COURT NO. 3  
FROM DALLAS 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 murder as a habitual felon and sentenced to sixty years' imprisonment and a \$10,000 fine.

Applicant contends, *inter alia*, that the \$10,000 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 the judgment in cause number F15-12273-J be reformed to delete the \$10,000 fine." The recommendation is supported by the habeas record and applicable law. *See* TEX. CODE CRIM. PROC. art. 37.10(b).

We hold that the \$10,000 fine imposed in cause no. F15-12273-J, *The State of Texas v. Martin Gutierrez Jr.*, from Criminal District Court No. 3 of Dallas County is vacated. The sixty-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: January 13, 2021  
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