



# IN THE COURT OF CRIMINAL APPEALS OF TEXAS

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NO. WR-91,899-01

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**EX PARTE JOHN JEFFREY MALONE, Applicant**

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**ON APPLICATION FOR A WRIT OF HABEAS CORPUS  
CAUSE NO. 10-CR-15762-A IN THE 107<sup>TH</sup> DISTRICT COURT  
FROM CAMERON COUNTY**

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*Per curiam.*

## OPINION

Applicant pleaded no contest to theft and, after a period of deferred adjudication, was sentenced to ten years' imprisonment. He did not appeal his conviction. 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 the trial court lacked jurisdiction to adjudicate his guilt because it had signed an order dismissing the charge on October 13, 2016 while he was on deferred adjudication supervision. He also alleges that counsel was ineffective for allowing him to plead no contest and accept a sentence on a case which had been dismissed years earlier. The record now reflects that Applicant is correct.

Relief is granted. The judgment adjudicating guilt in cause number 10-CR-1562 in the 107<sup>th</sup> District Court of Cameron County is vacated, and the cause is remanded to the trial court with instructions to dismiss the case. Applicant is remanded to the custody of the Sheriff of Cameron County. The trial court shall issue any necessary bench warrant within ten days from the date of this Court's mandate. The Court's mandate will issue this day.

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: February 3, 2021  
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