



**IN THE COURT OF CRIMINAL APPEALS
OF TEXAS**

NO. AP-76,875

IN RE STATE OF TEXAS EX REL. MARK SKURKA, Relator

ON APPLICATION FOR A WRIT OF MANDAMUS

CAUSE NO. 02-CR-1289-D

IN THE 105TH DISTRICT COURT OF NUECES COUNTY

Per curiam.

OPINION

Relator has filed a motion for leave to file a writ of mandamus pursuant to the original jurisdiction of this Court. He requests that this Court order the district court to vacate its order which directed Relator to prepare a judgment stating that real party in interest, Brandon Coronado, be not convicted of the underlying offense and that the district court hold a new sentencing hearing pursuant to this Court's opinion in AP-76,787 delivered May 2, 2012.

On July 26, 2012, this Court held this application in abeyance and ordered the Honorable Angelica E. Hernandez to respond. Judge Hernandez stated that she believed this Court's opinion

took Coronado back to the time of the motion to adjudicate guilt and that she was acting in compliance with this Court's opinion. The opinion of May 2, 2012 vacated only Coronado's sentence, not the adjudication of guilt, therefore Judge Hernandez's order to dismiss the charges against Coronado is contrary to the previous opinion issued by this Court.

We conditionally grant mandamus relief and direct the Respondent to: (1) vacate her order to dismiss charges against Coronado, and; (2) hold a sentencing hearing to sentence Coronado to a term of years within the applicable punishment range of the offense in compliance with this Court's May 2nd opinion in the underlying case. The writ of mandamus will issue only in the event the Respondent fails to comply within thirty days of the date of this opinion.

Filed: September 12, 2012

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