



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. AP-76,901

EX PARTE DAVID VERNON PATTERSON, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. CR-10-23495-A IN THE 336TH DISTRICT COURT
FROM FANNIN 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 pleaded guilty to possession of a controlled substance in a drug free zone, and was sentenced to ten years' imprisonment. He did not appeal his conviction.

Applicant contends, *inter alia*, that his plea was involuntary because trial counsel failed to advise him of the effects of the drug free zone allegation on his sentence. We remanded this application to the trial court for findings of fact and conclusions of law.

Trial counsel filed two affidavits with the trial court, and the trial court conducted hearings

at which trial counsel testified. Based on the affidavits and the testimony and evidence presented at the hearings, the trial court has determined that trial counsel was ineffective, and that Applicant's plea was not knowingly and voluntarily entered. Applicant is entitled to relief. *Ex parte Huerta*, 692 S.W.2d 681 (Tex. Crim. App. 1985).

Relief is granted. The judgment in Cause No. CR-10-23495 in the 336th District Court of Fannin County is set aside, and Applicant is remanded to the custody of the Sheriff of Fannin County to answer the charges as set out in the indictment. The trial court shall issue any necessary bench warrant within 10 days after the mandate of this Court issues.

Copies of this opinion shall be sent to the Texas Department of Criminal Justice—Correctional Institutions Division and Pardons and Paroles Division.

Delivered: October 31, 2012
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