



## IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-77,685-01

**EX PARTE PERRY LEE WOOTEN, Applicant**

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS**  
**CAUSE NO. 910847-A**  
**IN THE 176<sup>TH</sup> DISTRICT COURT FROM HARRIS COUNTY**

*Per curiam.*

### ORDER

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 theft by a public servant and was sentenced to five years' imprisonment.

On April 12, 2012, the trial court signed findings of fact and conclusions of law that were based on a writ hearing and the record before the court. The trial court recommended that relief be granted on Applicant's claim of ineffective assistance of counsel for his failure to request an accomplice witness instruction.

This Court does not believe that the trial court's recommendation is supported by the record. There was substantial non-accomplice evidence presented that corroborated the accomplice evidence. Based on the entirety of the evidence and proceedings against him, Applicant does not show that had the jury been given the accomplice witness instruction, there is a reasonable probability that the result of the proceeding would have been different. *Strickland v. Washington*, 466 U.S. 668, 694 (1984); *Davis v. State*, 278 S.W.3d 346 (Tex. Crim. App. 2009). Based on this Court's independent review of the entire record, we deny relief on all grounds presented in the application.

Filed: October 10, 2012  
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