



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-79,741-01

EX PARTE BENNIE DARRYL SCOTT, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 2010-667-C1 IN THE 19TH DISTRICT COURT
FROM MCLENNAN 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 two counts of endangering a child and sentenced to five years' imprisonment for each count. He did not appeal his conviction.

Applicant contends that his pleas were involuntary because the plea agreement cannot be followed. The trial court determined that Applicant pleaded guilty under an agreement that these sentences would run concurrently with a federal sentence. The trial court found that Applicant's sentences are not running concurrently, as contemplated in the plea agreement. Applicant is entitled

to relief. *Ex parte Huerta*, 692 S.W.2d 681 (Tex. Crim. App. 1985).

Relief is granted. The judgments in Cause No. 2010-667-C1 in the 19th District Court of McLennan County are set aside, and Applicant is remanded to the custody of the Sheriff of McLennan County to answer the charges as set out in the indictments. 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 30, 2013

Do not publish