IN THE COURT OF CRIMINAL APPEALS
OF TEXAS

NO. AP-75,994

EX PARTE BEVERLY ANN CHAMBERLAIN, Applicant

ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. CR-2267-00-F IN THE 332ND CRIMINAL DISTRICT COURT
FROM HIDALGO COUNTY

***Per curiam*.**

O P I N I O N

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 writ of habeas corpus. *Ex parte Young*, 418 S.W.2d 824, 826 (Tex. Crim. App. 1967). Applicant pleaded guilty and was convicted of one count of intoxication manslaughter, one count of manslaughter, two counts of intoxication assault, and two counts of aggravated assault and sentenced to six eight-year sentences, running concurrently.

Applicant contends that her convictions for manslaughter and aggravated assault violate the Double Jeopardy Clause of the US Constitution. Applicant was indicted for killing one individual

and harming two others during the same criminal episode. When the same victim is alleged, convictions for both intoxication manslaughter and manslaughter violate Double Jeopardy. *Erwin v. State*, 991 S.W.2d 804 (Tex. Crim. App. 1999). Also, convictions for both intoxication assault and aggravated assault violate Double Jeopardy when the same victim and action are involved. Both the State and the trial court agree with Applicant's contentions and recommend granting relief. Applicant is entitled to relief.

Relief is granted. The judgments in counts four, five, and six of Cause No. CR-2267-00-F in the 332nd Judicial District Court of Hidalgo County are vacated and set aside. All challenges to the judgments in count one, two, and three are denied. Applicant's claims of ineffective assistance of counsel, involuntary plea, defective indictments, and due process violations are denied.

Copies of this opinion shall be sent to the Texas Department of Criminal Justice-Correctional Institutions Division and Parole Division.

Delivered: September 10, 2008
Do Not Publish