IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. AP-76,133

EX PARTE CHRISTOPHER WOFFORD, Applicant

ON APPLICATION FOR A WRIT OF HABEAS CORPUS CAUSE NO. 45,742-C IN THE 89TH DISTRICT COURT FROM WICHITA 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 was convicted of assault on a public servant and sentenced to five years' imprisonment. He did not appeal his conviction.

Applicant contends that his plea was involuntary because the negotiated plea bargain to have a chance in boot camp was unenforceable because Applicant was not eligible for the boot camp program.

All parties agree that the plea agreement was for Applicant to go to boot camp and upon

successful completion, he would be released on three years of community supervision. All parties agree that Applicant was not eligible for boot camp and that when he was brought back to Wichita County, the intention was to release him to community supervision. However, due to medical problems and a death in defense counsel's family, the case was reset until after the trial court lost jurisdiction. All parties agree that Applicant is entitled to relief. Based on the pleadings and affidavits in the record, the trial court determined that the plea agreement was not followed. 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. 45,742-C in the 89th Judicial District Court of Wichita County is set aside, and Applicant is remanded to the custody of the sheriff of Wichita County to answer the charges as set out in the indictment. Applicant's remaining claims are dismissed.

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

Delivered: April 22, 2009
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