IN THE COURT OF CRIMINAL APPEALS
OF TEXAS

NO. AP-76,149

EX PARTE JAMES CURTIS FIELDS, Applicant

ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 619235 IN THE 179th DISTRICT COURT
FROM HARRIS 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 aggravated assault and sentenced to twenty-five years' imprisonment. He did not appeal his conviction.

The Applicant seeks an out-of-time appeal. Specifically, he contends that the waiver of his right to appeal in this cause was premature because the trial court did not follow the plea agreement for a twenty-five year sentence when it sentenced him to forty years' imprisonment as set out on the judgment.

The trial court has determined that the plea agreement was followed, but that a clerical error was made on the judgment. The trial court has corrected this error by entering a judgment *nunc pro tunc* reflecting the Applicant's sentence as twenty five years' imprisonment.

Therefore, we order the officials at the Texas Department of Criminal Justice, Correctional Institutions Division, to correct the Applicant's records, if they have not already done so, to show that he received a twenty five year sentence in the judgment of conviction in Case No. 619235 from the 179th Judicial District Court of Harris County.

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

Delivered: May 6, 2009
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