IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-79,447-01

EX PARTE ROBERTO C. JACQUEZ, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 2432 IN THE 42ND DISTRICT COURT
FROM COLEMAN 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 a writ of habeas corpus. *Ex parte Young*, 418 S.W.2d 824, 826 (Tex. Crim. App. 1967). Applicant was convicted of burglary of a habitation and sentenced to six years' imprisonment. He did not appeal his conviction.

Applicant contends that although the trial court intended to place him on shock probation, his case was not properly calendared and, as a result, the trial court lost jurisdiction. The trial court held an evidentiary hearing and made findings of fact and conclusions of law. It recommended that we grant Applicant a new trial. We decline to set aside Applicant's conviction but agree that his claim is meritorious. Relief is granted. The sentence in cause number 2432 in the 42nd District

Court of Coleman County is set aside, and Applicant is remanded to the custody of the Sheriff of Coleman County for a new punishment hearing. If it has not already done so, 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: May 15, 2013
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