# IN THE COURT OF CRIMINAL APPEALS OF TEXAS

**NO. WR-79,880-01**

**EX PARTE DANIEL LEE HOLDER, Applicant**

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 2000-318-C IN THE 54th DISTRICT COURT
FROM McLENNAN 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 three counts of indecency with a child and he was sentenced to fifteen years', fifteen years', and ten years' imprisonment, respectively. He did not appeal his conviction.

Applicant contends, *inter alia*, that his sentence in Count One of his conviction is outside the punishment range allowed. Specifically, the offense in Count One is a third degree felony and he was sentenced outside of the punishment range for a third degree felony.

The trial court, based upon the record, recommends that relief be granted. The Applicant is

entitled to relief. *Ex parte Rich*, 194 S.W.3d 508 (Tex. Crim. App. 2006).

Relief is granted. The sentence in Count One of Cause No. 2000-318-C in the 54th District Court of McLennan County is set aside, and Applicant is remanded to the custody of the Sheriff of McLennan County so that a new sentencing hearing may be held regarding Count One of the indictment. The trial court shall issue any necessary bench warrant within 10 days after the mandate of this Court issues.

All other relief is denied.

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

Delivered: September 11, 2013
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