



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-95,058-01

EX PARTE LASHA EILEEN SPACEK, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. CR-19-1300-D-WHC IN THE 428TH DISTRICT COURT
FROM HAYS COUNTY**

Per curiam. **KELLER, P.J.** filed a dissenting opinion, joined by **YEARY, KEEL, and SLAUGHTER, JJ.**

OPINION

Applicant pleaded guilty to theft and was sentenced to two years' imprisonment in a state jail. Applicant filed this application for a writ of habeas corpus in the county of conviction, and the district clerk forwarded it to this Court. *See* TEX. CODE CRIM. PROC. art. 11.07.

Applicant contends that her plea was involuntary because trial counsel failed to inform her that this sentence could be stacked on one she was already serving. The affidavit from trial counsel states that he affirmatively misadvised Applicant that any sentence from a jury would run concurrently, which caused the defense to reject a plea offer from the State.

Relief is granted. *Hill v. Lockhart*, 474 U.S. 52 (1985); *Ex parte Argent*, 393 S.W.3d 781

(Tex. Crim. App. 2013). The judgment in cause number CR-19-1300-D in the 428th District Court of Hayes County is set aside, and Applicant is remanded to the custody of the Sheriff of Hayes County to answer the charges as set out in the indictment. The trial court shall issue any necessary bench warrant within ten days from the date of this Court's mandate.

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

Delivered: OCTOBER 18, 2023
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