



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-93,799-01

EX PARTE ORLANDO MARTINEZ, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 13-CRD-01-A
IN THE 229TH DISTRICT COURT FROM DUVAL COUNTY**

Per curiam.

OPINION

Applicant was convicted of one count of aggravated sexual assault, one count of indecency with a child and one count of continuous sexual assault of a child. He was sentenced to twenty-seven years in two counts and twenty years' imprisonment in one count. 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's amended writ application raised ineffective assistance of counsel and double jeopardy. That application is non-compliant because no one verified the application. However, because it appears Applicant is entitled to relief, the Court will not dismiss the application. *Ex parte Golden*, 991 S.W.2d 859 (Tex. Crim. App. 1999).

The trial court has determined Applicant's convictions for aggravated sexual assault and indecency with a child are based on the same actions and same victim as his conviction for continuous sexual assault of a child and therefore violate double jeopardy. We agree that Applicant has suffered multiple punishments for the same offense. *Ex parte Cavazos*, 203 S.W.3d 333, 337 (Tex. Crim. App. 2007). Relief is granted. The judgment in counts one and two of Cause No. 13-CRD-01 in the 229th District Court of Duval County are vacated and set aside. All remaining issues are denied.

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

Delivered: November 15, 2023
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