



# IN THE COURT OF CRIMINAL APPEALS OF TEXAS

**NO. WR-94,828-01**

**EX PARTE RALPH BENNETT FULLER JR., Applicant**

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS  
CAUSE NO. W09-56881-S(A) IN THE 282ND DISTRICT COURT  
FROM DALLAS COUNTY**

*Per curiam.* YEARY, J. filed a dissenting opinion joined by SLAUGHTER, J.

## OPINION

Applicant was convicted of evading arrest, which was a state-jail felony, and sentenced to two years' imprisonment. Through habeas counsel, 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 his sentence is unlawful because the trial court ordered that it be served in the penitentiary rather than the state jail. The State agrees, and the trial court has entered findings recommending that this Court grant habeas relief. The findings and recommendation are supported by the record. *See Ex parte Rich*, 194 S.W.3d 508, 514-15 (Tex. Crim. App. 2006). Relief is granted.

The judgment revoking community supervision in cause number F-0956881-S in the 282nd District Court of Dallas County is set aside, and Applicant is remanded to the custody of the Sheriff of Dallas County to answer the allegations as set out in the motion to revoke supervision. 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.

Filed: November 8, 2023  
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