



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-89,364-01

EX PARTE NICHOLAS ROYAL PORTER, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 18049A IN THE 21ST DISTRICT COURT
FROM WASHINGTON COUNTY**

Per curiam. **KELLER, P.J., and SLAUGHTER, J., dissented.**

OPINION

Applicant pleaded guilty to murder and was sentenced to imprisonment for life. He did not appeal his conviction. He 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, among other things, that his guilty plea was involuntary because trial counsel told him the trial court could place him on deferred adjudication probation. After holding an evidentiary hearing, the trial court made findings of fact and concluded that counsel provided deficient advice but Applicant had not demonstrated prejudice. The trial court made no recommendation.

Based on our independent review of the record, we conclude that counsel provided deficient

advice and that Applicant has demonstrated prejudice. 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 18049 in the 21st District Court of Washington County is set aside, and Applicant is remanded to the custody of the Sheriff of Washington 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: July 1, 2020
Do not publish