



## IN THE COURT OF CRIMINAL APPEALS OF TEXAS

**NO. WR-44,521-03**

**EX PARTE BRIAN EDWARD FRANKLIN, Applicant**

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS  
CAUSE NO. C-2-009964-0569160-C  
IN THE CRIMINAL DISTRICT COURT NO. 2  
FROM TARRANT COUNTY**

*Per curiam.*

### OPINION

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 aggravated sexual assault and sentenced to life imprisonment. The Second Court of Appeals affirmed his conviction. *Franklin v. State*, No. 02-95-0084-CR (Tex. App.—Fort Worth Oct. 18, 1996) (unpublished).

Applicant contends that his right to due process was violated due to the complainant's perjured testimony, which also caused other witnesses to give false testimony.

After holding a live hearing, the trial court has determined that the unknowing use of false

evidence deprived Applicant of due process. *Ex parte Chabot*, 300 S.W.3d 768 (Tex. Crim. App. 2009); *Ex parte Weinstein*, 421 S.W.3d 656, 665 (Tex. Crim. App. 2014). The trial court's findings are supported by the record. Relief is granted. The judgment in Cause No. 0569160R in the Criminal District Court Number Two of Tarrant County is set aside, and Applicant is remanded to the custody of the Sheriff of Tarrant County to answer the charges as set out in the indictment. The trial court shall issue any necessary bench warrant within 10 days after the mandate of this Court issues.

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

Delivered: April 6, 2016  
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