



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-85,057-01

EX PARTE JOHN MICHAEL ROSA, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 15-03-02184-CR(1) IN THE 221st DISTRICT COURT
FROM MONTGOMERY 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 possession of a controlled substance and sentenced to three years' imprisonment. He did not appeal his conviction.

Applicant contends, *inter alia*, that his plea was involuntary because, at the time he entered his guilty plea, he was not aware of subsequent laboratory testing that showed the amount of narcotics seized in this case was less than that alleged in the indictment.

Based on the record, the trial court determined subsequent testing did show the amount of

narcotics seized in Applicant's case was less than that alleged in the indictment. The trial court also concluded that, because Applicant was not aware of the laboratory results, his plea in this case was unknowing and involuntary. Applicant is entitled to relief. *Ex parte Mable*, 443 S.W.3d 129 (Tex. Crim. App. 2014).

Relief is granted. The judgment in Cause No. 15-03-02184-CR in the 221st District Court of Montgomery County is set aside, and Applicant is remanded to the custody of the Sheriff of Montgomery 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: June 29, 2016
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