



# IN THE COURT OF CRIMINAL APPEALS OF TEXAS

**NO. WR-80,344-05**

**EX PARTE JOSEPH JOHN FLORES, II, Applicant**

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS  
CAUSE NO. 870676-A IN THE 209<sup>th</sup> DISTRICT COURT  
FROM HARRIS 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 methylenedioxy methamphetamine (MDMA) in an amount of four grams or more but less than four hundred grams and sentenced to three years' imprisonment. He did not appeal his conviction.

Applicant, who pled guilty to a second degree felony, contends that newly discovered laboratory analysis in this case reflects that he possessed less than four grams of MDMA. Possession of less than four grams of MDMA is a third degree felony. TEX. HEALTH & SAFETY CODE § 481.116(c). Applicant alleges he would not have pled guilty to a second degree felony had

he known that the lab analysis determined that, at most, he possessed a third degree felony quantity of MDMA.

The State and the trial court agree that Applicant is entitled to relief. Applicant's claim is supported by the habeas record. 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. 870676-A in the 209<sup>th</sup> District Court of Harris County is set aside, and Applicant is remanded to the custody of the Sheriff of Harris 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: January 25, 2017  
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