



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-86,139-01

EX PARTE ROBERT THOMAS JOHNSON, III, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 15CR3165-83-1 IN THE 56TH DISTRICT COURT
FROM GALVESTON 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 amphetamine and sentenced to two years' imprisonment. He did not appeal his conviction.

Applicant contends that his sentence violates due process because the evidence in his case was tested and determined to be amphetamine in an FDA-approved form. *See* TEX. HEALTH & SAFETY CODE § 481.116(b).

The parties have entered agreed findings of fact and conclusions of law, and the trial court

has determined that Applicant's decision to plead guilty in this case was not a voluntary and intelligent choice. 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. 15CR3165-83-1 in the 56th District Court of Galveston County is set aside, and Applicant is remanded to the custody of the Sheriff of Galveston 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 12, 2017
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