



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-86,152-01

EX PARTE MARCUS JOHN CARMONA, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. C-396-010937-1437206-A
IN THE 396TH DISTRICT COURT 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 possession of a controlled substance and sentenced to five years in prison.

Applicant contends that his guilty plea was involuntarily entered and that his conviction violates due process because the drugs he possessed did not qualify for a felony prosecution. *See Ex parte Morrow*, 952 S.W.2d 530, 534 (Tex. Crim. App. 1997). The trial court finds, with the State's agreement, that Applicant is correct, and it recommends granting habeas relief. The findings

and recommendation are supported by the record.

Relief is granted. The judgment in Cause No. 1437206D in the 396th District Court 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: February 1, 2017
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