



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-86,325-01

EX PARTE RANDALL CHARLES WORTH, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 16-10-12261-CR(1) IN THE 359TH 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 pleaded guilty to possession with intent to deliver methamphetamine in an amount of one gram or more but less than four grams, and was sentenced to three years' imprisonment. He did not appeal his conviction.

Applicant contends that his plea was involuntary because after he had pleaded guilty the evidence in this case was tested and the methamphetamine was found to weigh less than one gram. Possession with intent to deliver methamphetamine in an amount of less than one gram is a state jail

felony, whereas possession with intent to deliver methamphetamine in an amount of one gram or more but less than four grams is a second degree felony. *See* TEX. HEALTH & SAFETY CODE §§ 481.112(b), (c).

The trial court has entered agreed findings of fact and conclusions of law, and 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.¹ The judgment in Cause No. 16-10-12261-CR in the 359th 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: February 8, 2017
Do not publish

¹ We would note that this application does not comply with the Texas Rules of Appellate Procedure. Specifically, the application is not on the prescribed form as prescribed by TEX. R. APP. P. 73.1(a). However, because the record in this case is clear, we will exercise our jurisdiction and grant relief. *See Ex parte Golden*, 991 S.W.2d 859 (Tex. Crim. App. 1999).