



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. PD-1212-17

DAMON LAVELLE ASBERRY, Appellant

v.

THE STATE OF TEXAS

**ON APPELLANT'S PETITION FOR DISCRETIONARY REVIEW
FROM THE TENTH COURT OF APPEALS
MCLENNAN COUNTY**

PER CURIAM.

O P I N I O N

Appellant was convicted of murder, and he subsequently sought post-conviction DNA testing pursuant to Chapter 64 of the Code of Criminal Procedure. *See* TEX. CODE CRIM. PROC. art. 64.03. After the requested testing was performed, the trial court made a finding that the results of the testing were unfavorable to appellant, and the court of appeals upheld that determination on appeal. This Court initially granted appellant's petition for discretionary review challenging this holding by the court of appeals. However, having

examined the record and briefs, we conclude that our decision to grant review was improvident. We therefore dismiss appellant's petition for discretionary review as improvidently granted.

Delivered: December 19, 2018

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