



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-90,666-01

EX PARTE JOHN PALMER, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 1985CR2282-W1 IN THE 144TH DISTRICT COURT
FROM BEXAR COUNTY**

Per curiam. KELLER, P.J., dissented. YEARY, J., not participating.

OPINION

Applicant was convicted of indecency with a child and sentenced to ten years' imprisonment. He did not appeal his conviction. Applicant filed this application for a writ of habeas corpus in the county of conviction, and the district clerk forwarded it to this Court. *See* TEX. CODE CRIM. PROC. art. 11.07.

In a single ground, Applicant contends that he is actually innocent. Based on the record, the trial court has determined that Applicant has established by clear and convincing evidence that he is actually innocent.

We agree. Relief is granted. *Ex parte Elizondo*, 947 S.W.2d 202 (Tex. Crim. App. 1996); *Ex parte Tuley*, 109 S.W.3d 388 (Tex. Crim. App. 2002). The judgment in cause number

1985CR2282 in the 144th District Court of Bexar County is set aside, and Applicant is remanded to the custody of the Sheriff of Bexar County to answer the charges as set out in the indictment. The trial court shall issue any necessary bench warrant within ten days from the date of this Court's mandate.

Copies of this opinion shall be sent to the Texas Department of Criminal Justice—Correctional Institutions Division and the Board of Pardons and Paroles.

Delivered: January 15, 2020
Do not publish