



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NOS. WR-13,685-05 & WR-13,685-06

EX PARTE ANTHONY RAY MASSINGILL, Applicant

**ON APPLICATIONS FOR WRITS OF HABEAS CORPUS
CAUSE NOS. W79-13007-I(A) & W79-13004-I(A)
IN THE CRIMINAL DISTRICT COURT NUMBER TWO
FROM DALLAS COUNTY**

***Per curiam.* KEASLER, J., not participating.**

O P I N I O N

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 these applications for writs of habeas corpus. *Ex parte Young*, 418 S.W.2d 824, 826 (Tex. Crim. App. 1967). Applicant was convicted of aggravated robbery and aggravated rape. He was sentenced to ten years' imprisonment in each cause.

Applicant contends that he has newly discovered evidence that he is actually innocent of this offense. The trial court has determined that no rational jury would have convicted Applicant in light of the new evidence, which was previously unavailable to Applicant. The evidence, obtained

pursuant to post-conviction DNA testing and investigation, indicates that it was another individual, and not Applicant, who committed this offense. Applicant is entitled to relief. *Ex parte Elizondo*, 947 S.W.2d 202, 209 (Tex. Crim. App. 1996).

Relief is granted. The judgments in Cause Nos. 79-13004-I and 79-13007-I in Criminal District Court Number 2 of Dallas County is set aside, and Applicant is remanded to the custody of the Sheriff of Dallas County to answer the charges against him. 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 Parole Division.

Delivered: September 17, 2014
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