



# **IN THE COURT OF CRIMINAL APPEALS OF TEXAS**

**NO. WR-60,687-08**

**EX PARTE MANDEL ROGERS, Applicant**

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS  
CAUSE NO. 770963-B  
IN THE 180<sup>TH</sup> DISTRICT COURT FROM HARRIS COUNTY**

*Per curiam.*

## **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 this application for writ of habeas corpus. *Ex parte Young*, 418 S.W.2d 824, 826 (Tex. Crim. App. 1967). Applicant was convicted of aggravated robbery and sentenced to twelve years' imprisonment. The Sixth Court of Appeals affirmed his conviction. *Rogers v. State*, No. 06-99-00092-CR (Tex. App.—Texarkana Aug. 1, 2000).

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 judgment in Cause No. 770963 in the 180<sup>th</sup> District Court of Harris County is set aside, and Applicant is remanded to the custody of the Sheriff of Harris County to answer the charge 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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