



## IN THE COURT OF CRIMINAL APPEALS OF TEXAS

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NO. WR-82,413-01

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**EX PARTE ERIC DWIGHT POLK, Applicant**

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**ON APPLICATION FOR A WRIT OF HABEAS CORPUS  
CAUSE NO. 1438289 IN THE 263RD DISTRICT COURT  
FROM HARRIS COUNTY**

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*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 of a controlled substance, and was sentenced to one hundred and eighty days' state jail imprisonment. He did not appeal his conviction.

Applicant contends, among other things,<sup>1</sup> that his plea was involuntary because the substance he possessed was tested after his plea and found not to contain MDMA, the controlled substance

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<sup>1</sup>This Court has considered Applicant's other claim, and finds it to be without merit.

Applicant pleaded guilty to possessing. Applicant is entitled to relief. *Ex parte Mable*, 2014 Tex. Crim. App. LEXIS 974 (Tex. Crim. App. Sept. 17, 2014). Applicant cannot be said to have entered his plea knowingly and intelligently while operating under a misunderstanding regarding the facts and relevant circumstances of the case. Relief is granted. The judgment in Cause No. 1438289 in the 263rd District Court of Harris County is set aside, and Applicant is remanded to the custody of the Sheriff of Harris 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 Pardons and Paroles Division.

Delivered: November 26, 2014

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