



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-83,018-01

EX PARTE HENRY ALLEN BALTRIP, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 1378311-A IN THE 263RD DISTRICT COURT
FROM HARRIS COUNTY**

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 was convicted of possession of codeine and sentenced to seven years' imprisonment. He did not appeal his conviction.

Applicant contends that his guilty plea was involuntary and his due process rights were violated because after he pleaded guilty forensic testing found no controlled substance. The trial court recommended that we set aside Applicant's conviction. We agree. Applicant's plea was involuntary. *Ex parte Mable*, 443 S.W.3d 129 (Tex. Crim. App. 2014). We decline, however, to

adopt the trial court's sixth conclusion of law and its reliance on *Ex parte Moffett*, 542 S.W.2d 184 (Tex. Crim. App. 1976).

Relief is granted. The judgment in cause number 137831101010 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 as set out in the information. 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: April 1, 2015
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