



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-85,670-01

EX PARTE ERIC ANTHONY MASSO, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 1496119-A IN THE 184TH 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 a controlled substance and sentenced to 180 days in the state jail.

Applicant contends, after laboratory testing of the substance he possessed was made known to him, that his guilty plea was involuntary. *Ex parte Morrow*, 952 S.W.2d 530, 534 (Tex. Crim. App. 1997). The trial court finds, "At the time of Applicant's offense, amphetamine in the formulation present in this case had been approved by the FDA and could not support [the]

conviction.” The trial court, with the State’s agreement, recommends that relief be granted. The findings and recommendation are supported by the record.

Relief is granted. The judgment in Cause No. 1496119 in the 184th District Court of Harris County is set aside, and Applicant, if in custody, 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: October 5, 2016
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