



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-86,309-01

EX PARTE TRAVIS ALEJANDRO LYON, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 15-06-06095-CR-(1) IN THE 221ST DISTRICT COURT
FROM MONTGOMERY 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 originally charged with possession with intent to deliver one gram or more but less than four grams of methamphetamine. He pleaded guilty to possession of one gram or more but less than four grams of methamphetamine, and was sentenced to two years' imprisonment. He did not appeal his conviction.

Applicant contends that his plea was involuntary because the evidence in his case was tested after his plea and found not to contain methamphetamine, even though the lab test shows that the

evidence contained a different controlled substance.¹

The parties have entered agreed findings of fact and conclusions of law, and the trial court has determined that Applicant's decision to plead guilty in this case was not a voluntary and intelligent choice. Applicant is entitled to relief. *Ex parte Mable*, 443 S.W.3d 129 (Tex. Crim. App. 2014).

Relief is granted. The judgment in Cause No. 15-06-06095-CR in the 221st District Court of Montgomery County is set aside, and Applicant is remanded to the custody of the Sheriff of Montgomery County to answer the charges as set out in the indictment. 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: February 8, 2017
Do not publish

¹Methamphetamine is a substance classified in Penalty Group 1 under the Texas Health and Safety Code. The substance actually found in the evidence according to the lab report was 25I-NBOMe, a substance classified in Penalty Group 1-A.