



## IN THE COURT OF CRIMINAL APPEALS OF TEXAS

**NOS. WR-23,129-04 & WR-23,129-10**

**EX PARTE TIMMY LYNN DUKE, Applicant**

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS**  
**CAUSE NO. W91-31292-L(E) IN CRIMINAL DISTRICT COURT NO. 5**  
**FROM DALLAS COUNTY**

*Per curiam.*

### **O P I N I O N**

Applicant seeks post-conviction habeas relief from his conviction for burglary of a habitation. TEX. PENAL CODE § 30.02(a). The State agrees that relief should be granted. This Court denied relief in Applicant's initial writ application. *Ex parte Duke*, No. WR-23,129-04 (unpublished order, Apr. 13, 2011). After careful consideration, we reopen Applicant's initial writ application and withdraw our previous order denying relief.

Relief is granted. The judgment in Cause No. F91-31292-L in the Criminal District Court Number Five of Dallas County is set aside, and Applicant is remanded to the custody of the Sheriff of Dallas County to answer the charges as set out in the indictment. The convicting court shall issue any necessary bench warrant within ten days after the mandate

of this Court issues. Applicant's subsequent writ application, No. WR-23,129-10, is hereby dismissed as moot.

DELIVERED: June 27, 2018  
DO NOT PUBLISH