



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-84,558-02

EX PARTE EVEROLD WAYNE STEWART, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. W87-86788 H(B)
IN THE CRIMINAL DISTRICT COURT OF DALLAS 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 murder and sentenced to twenty-five years' imprisonment. The Fifth Court of Appeals affirmed his conviction. *Stewart v. State*, No. 05-88-00116-CR (Tex. App.—Dallas Jan. 25, 1989) (not designated for publication).

Applicant contends that the State violated *Brady v. Maryland*¹ when the police did not

¹ 373 U.S. 83 (1963).

disclose notes of interviews with the two primary witnesses that contained significant impeachment material. *Smith v. Cain* 132 S. Ct. 627 (2012). The State agrees that Applicant is entitled to relief.

In agreed findings, the trial court has determined that Applicant is entitled to relief on his *Brady* claim. The findings also note that Applicant has voluntarily withdrawn actual innocence and Article 11.073 claims. The trial court's findings are supported by the record. Relief is granted. The judgment in Cause No. F 87 86788 H in the Criminal District Court of Dallas County is set aside, and Applicant is remanded to the custody of the Sheriff of Dallas County.

Copies of this opinion shall be sent to the Texas Department of Criminal Justice-Correctional Institutions Division and Pardons and Paroles Division.

Delivered: November 21, 2018
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