



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-87,190-02

EX PARTE ANDREW MELCHOR SAUCEDO, Applicant

ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 1415436-A IN THE 262ND DISTRICT COURT
FROM HARRIS COUNTY

HERVEY, J., filed a concurring opinion in which Keasler, J., joined.

CONCURRING OPINION

I wholeheartedly agree with Judge Keasler that *Mable* has proven itself poorly reasoned over time and that it should be overruled. I also agree with the new analytical framework that he proposes. I write separately, however, to point out that the moral of this long-running story is that defense attorneys and prosecutors should not allow a defendant to plead guilty until the laboratory report comes back. Defense attorneys might be subject to ineffective-assistance-of-counsel claims, and the State might have to re-prosecute defendants.

With these comments, I join Judge Keasler's concurring opinion and concur in the

judgment of the Court.

Filed: June 26, 2019

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