



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-87,470-01

EX PARTE GREGORY RAYMOND KELLEY, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 13-1367-K26A IN THE 26TH DISTRICT COURT
FROM WILLIAMSON COUNTY**

Per curiam. KELLER, P.J., and YEARY, J., concur. NEWELL, J., filed a concurring opinion in which RICHARDSON, J., joined.

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 two counts of aggravated sexual assault of a child under the age of six and sentenced to twenty-five years' imprisonment, in each count. Applicant's conviction was affirmed on appeal. *Kelley v. State*, No. 03-14-00622-CR (Tex. App.—Austin Feb. 11, 2016) (not designated for publication).

Applicant alleges, among other things, that he is actually innocent of committing the offense in this case. The State agrees that he is entitled to relief.

The trial court, after holding a live evidentiary hearing, recommends relief be granted. We agree. Applicant is entitled to relief. *Ex parte Elizondo*, 947 S.W.2d 202 (Tex. Crim. App. 1996).

Relief is granted. The judgment in Cause No. 13-1367-K26 in the 26th District Court of Williamson County is set aside, and Applicant is remanded to the custody of the Sheriff of Williamson 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:
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