



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-90,453-01

EX PARTE DAMIEN LAFELL, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 1201372-A IN THE 177TH DISTRICT COURT
FROM HARRIS COUNTY**

Per curiam. KEASLER, YEARY, JJ. concur.

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 possession of controlled substance (cocaine) in an amount of less than one gram, and was sentenced to one hundred and eighty days imprisonment. He did not appeal his conviction.

Applicant contends that his plea was involuntary because after he entered his plea, the evidence in his case was tested and found to contain no controlled substance.

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. *Brady v. United States*, 397 U.S. 742 (1969); *Ex parte Mable*, 443 S.W.3d 129, 131 (Tex. Crim. App. 2014). We agree. 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. 1201372-CR in the 177^h District Court of Harris County is set aside, and Applicant is remanded to the custody of the Sheriff of Harris 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: November 20, 2019
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