



## IN THE COURT OF CRIMINAL APPEALS OF TEXAS

**NO. WR-90,650-01**

**EX PARTE FERNANDO GARZA, Applicant**

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS  
CAUSE NO. 1388830-A IN THE 174TH DISTRICT COURT  
FROM HARRIS COUNTY**

*Per curiam.* **KEASLER and YEARY, JJ., concur.**

### OPINION

Applicant was convicted of possession of a controlled substance and sentenced to 180 days in the county jail. He did not appeal his conviction. He filed this application for a writ of habeas corpus in the county of conviction, and the district clerk forwarded it to this Court. *See* TEX. CODE CRIM. PROC. art. 11.07.

Applicant contends that his plea was involuntary and his due process rights were violated because a controlled substance was not found in the materials he possessed. Based on the record, the trial court has determined that Applicant's plea was involuntary.

Relief is granted. *See Ex parte Mable*, 443 S.W.3d 129 (Tex. Crim. App. 2014). The judgment in cause number 1388830 in the 174th 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. The trial court shall issue any necessary bench warrant within ten days from the date of this Court's mandate.

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

Delivered: March 11, 2020

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