



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-84,021-04

EX PARTE LYDELL GRANT, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 1288802-C IN THE 351ST DISTRICT COURT
FROM HARRIS COUNTY**

***Per curiam.* RICHARDSON, J., filed a concurring opinion in which KELLER, P.J., HERVEY and WALKER, JJ., joined. YEARY, J., concurred. NEWELL, J., did not participate.**

OPINION

Applicant was convicted of murder and sentenced to life imprisonment. The First Court of Appeals affirmed his conviction. *Grant v. State*, No. 01-12-01173-CR (Tex. App.—Houston [1st Dist.] Apr. 1, 2014) (not designated for publication). Applicant 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, among other things, that he is actually innocent. Based on the record, the trial court has determined that Applicant has established by clear and convincing evidence that he is actually innocent.

The Court initially remanded this application because the habeas record did not support the agreed recommendation to grant actual innocence relief. The entirety of the record now supports the agreed recommendation to grant actual innocence relief.

Relief is granted. *Ex parte Elizondo*, 947 S.W.2d 202 (Tex. Crim. App. 1996); *Ex parte Tuley*, 109 S.W.3d 388 (Tex. Crim. App. 2002). The judgment in cause number 1288802 in the 351st 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 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: May 19, 2021

Publish