



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-93,841-01

EX PARTE ROGER E. HAWKINS JR., Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. C-371-W012068-0464520-A IN THE 371ST DISTRICT COURT
FROM TARRANT COUNTY**

Per curiam. Walker, J., filed a concurring opinion. Yeary, J., filed a dissenting opinion joined by Slaughter, J. Keller, P.J., dissented.

OPINION

Applicant was convicted of aggravated sexual assault of a child and sentenced to imprisonment. Applicant, through habeas counsel, 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, *inter alia*, that he is actually innocent. The State agrees. The trial court held an evidentiary hearing. Based on the hearing testimony and the trial and habeas records, the trial court has determined that Applicant has established by clear and convincing evidence that he is actually innocent. *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 trial court's findings regarding actual innocence and its recommendation to grant habeas relief are supported by the record. Relief is granted. The judgment in cause number 0464520D in the 371st District Court of Tarrant County is set aside. The trial court shall issue any necessary orders to dismiss the indictment 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: August 24, 2022
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