



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-94,041-01

EX PARTE JOSE D. GONZALEZ, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 1191091-A
IN THE 208TH DISTRICT COURT FROM HARRIS COUNTY**

Per curiam. YEARY, J. filed a dissenting opinion.

OPINION

Applicant was convicted of improper photography and sentenced to three hundred and sixty-four days' imprisonment in this cause. 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. He did not appeal the conviction.

Applicant alleges that he is actually innocent and that he is entitled to relief because the statute under which he was convicted was later found to be unconstitutional. Applicant is not actually innocent, but is entitled to relief. This Court, in *Ex parte Thompson*, held unconstitutional the improper photography statute for which Applicant was convicted. *Ex parte Thompson*, 442

S.W.3d 325 (Tex. Crim. App. 2014). Applicant filed this habeas application in part based on the *Thompson* decision and asks that his conviction be set aside.

Relief is granted. The judgment in count one of Cause No. 1191091 in the 208th 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 so that the indictment may be dismissed in accordance with this Court's opinion in *Ex parte Thompson*. The trial court shall issue any necessary bench warrant within 10 days after the mandate of this Court issues.

Delivered: October 19, 2022

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