



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-41,993-03

EX PARTE TYRONE DAY, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. W89-99038-L(C)
IN THE CRIMINAL DISTRICT COURT NO. FIVE FROM DALLAS COUNTY**

Per curiam.

OPINION

Applicant pleaded guilty and was convicted of sexual assault. He was sentenced to forty years' imprisonment. 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 that he is entitled to relief based on scientific evidence not available at the time of his initial plea and that his plea was involuntary. The State and the trial court agree that Applicant is entitled to relief.

We agree. Relief is granted based on new scientific evidence under Tex. Code of Criminal Procedure Sec. 11.073. The judgment in cause number F89-99038-TL in the Criminal District Court No. Five of Dallas County is set aside, and Applicant is remanded to the custody of the Sheriff of

Dallas 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: April 26, 2023

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