



## IN THE COURT OF CRIMINAL APPEALS OF TEXAS

**NO. WR-49,763-02**

**EX PARTE MARTIN LUCIO SANTILLAN, Applicant**

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS  
CAUSE NO. W97-51514-R(B) IN THE 265TH DISTRICT COURT  
FROM DALLAS COUNTY**

*Per curiam.* YEARY, J., filed a concurring opinion.

### OPINION

Applicant was convicted of capital murder and sentenced to life imprisonment. The Fifth Court of Appeals affirmed his conviction. *Santillan v. State*, No. 05-98-00532-CR (Tex. App.—May 11, 2000) (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 that new DNA evidence shows that he is actually innocent and that he is entitled to relief on the basis of Texas Code of Criminal Procedure Article 11.073. The trial court has determined, and the State agrees, that Applicant has established (1) by clear and convincing evidence that he is actually innocent and (2) that had the scientific evidence been presented at his

trial, on the preponderance of the evidence, Applicant would not have been convicted.

We agree. Relief is granted. *Ex parte Elizondo*, 947 S.W.2d 202 (Tex. Crim. App. 1996); TEX. CODE CRIM. PRO. art. 11.073. The judgment in cause number F97-51514-UR in the 265th District Court 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: February 22, 2023  
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