



# IN THE COURT OF CRIMINAL APPEALS OF TEXAS

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NO. AP-77,009

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EX PARTE IRENO S. YBARRA, Applicant

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ON APPLICATION FOR A WRIT OF HABEAS CORPUS  
CAUSE NO. 899100-A IN THE 174TH DISTRICT COURT  
FROM HARRIS COUNTY

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*Per curiam.*

## OPINION

Pursuant to the provisions of Article 11.07 of the Texas Code of Criminal Procedure, the clerk of the trial court transmitted to this Court this application for a writ of habeas corpus. *Ex parte Young*, 418 S.W.2d 824, 826 (Tex. Crim. App. 1967). Applicant was convicted of possession of cocaine and sentenced to eighteen years' imprisonment. He did not appeal his conviction.

Applicant contends, *inter alia*, that his guilty plea entered pursuant to a plea agreement was involuntary because he was misinformed about the correct punishment range for the amount of cocaine he possessed. The trial court finds the claim to have merit, stating, "Based on the affirmative (albeit inadvertent) misinformation the applicant received regarding the true weight of the controlled substance he possessed and the range of punishment he could have faced had he taken the case to

trial, the applicant's plea was not knowingly and voluntarily entered." The trial court finds that Applicant is entitled to relief in the form of a new trial, and this Court agrees. *See Ex parte Morrow*, 952 S.W.2d 530, 534-5 (Tex. Crim. App. 1997).

Relief is granted. The judgment in Cause No. 899100 in the 174th 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 10 days after the mandate of this Court issues.

Copies of this opinion shall be sent to the Texas Department of Criminal Justice—Correctional Institutions Division and Pardons and Paroles Division.

Delivered: March 27, 2013  
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