



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-80,561-01

EX PARTE JERRELL BELL, Applicant

ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 135602301010 IN THE 338TH DISTRICT COURT
FROM HARRIS COUNTY

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 writ of habeas corpus. *Ex parte Young*, 418 S.W.2d 824, 826 (Tex. Crim. App. 1967). Applicant was convicted of possession of less than one gram of cocaine, a state jail felony, and sentenced to 120 days' confinement in the county jail. He did not appeal his conviction.

Applicant contends that he is actually innocent because newly available evidence shows he did not possess a controlled substance. The State agrees that Applicant is entitled to relief.

Laboratory testing conducted after Applicant's conviction shows that the substance he

possessed was not a controlled substance. The trial court has determined that the Applicant has proven by clear and convincing evidence that no reasonable juror would have convicted him in light of the new evidence. Based on the trial court's findings and conclusions and our own review of the entire record, we find that Applicant is entitled to relief. *Ex parte Tuley*, 109 S.W.3d 388, 392 (Tex. Crim. App. 2002) (citing *Ex parte Elizondo*, 947 S.W.2d 202, 207 (Tex. Crim. App. 1996)).

Relief is granted. The judgment in Cause Number 135602301010 in the 338th Judicial 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: December 18, 2013
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