

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-05-00327-CR

Charles T. Roberts, Appellant

v.

The State of Texas, Appellee

**FROM THE COUNTY COURT AT LAW NO. 2 OF WILLIAMSON COUNTY
NO. 04-2350-2, HONORABLE TIMOTHY L. WRIGHT, JUDGE PRESIDING**

MEMORANDUM OPINION

After his motion to suppress evidence was overruled, appellant Charles T. Roberts pleaded guilty to possessing less than two ounces of marihuana. *See* Tex. Health & Safety Code Ann. § 481.121 (West 2003). As called for in a plea bargain agreement, the court deferred adjudication and placed appellant on community supervision.

In his sole point of error, appellant contends that the warrant to search his residence was issued without probable cause. He relies on the opinions of this Court in *Davila v. State*, 169 S.W.3d 735 (Tex. App.—Austin 2005, no pet.) and *Serrano v. State*, 123 S.W.3d 53 (Tex. App.—Austin 2003, pet. ref'd). The State confesses error. The point of error is sustained.

The deferred adjudication order is reversed and the cause is remanded to the county court at law. On the State's motion, the Court's mandate shall issue immediately. *See* Tex. R. App. P. 18.1(c).

W. Kenneth Law, Chief Justice

Before Chief Justice Law, Justices Pemberton and Waldrop

Reversed and Remanded

Filed: December 15, 2005

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