IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-90,555-03

EX PARTE ROY BROWN, Applicant

ON APPLICATION FOR A WRIT OF HABEAS CORPUS CAUSE NO. 11F0886-102-B IN THE 102ND DISTRICT COURT FROM BOWIE COUNTY

***Per curiam*.**

O R D E R

Applicant was convicted of continuous sexual abuse of a child and sexual assault of a child and sentenced to fifty and twenty years' imprisonment, respectively. The Sixth Court of Appeals affirmed his conviction. *Brown v. State*, No. 06-16-00155-CR (Tex. App.—Texarkana Jun. 20, 2017) (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 he is entitled to an out-of-time appeal of the denial of his motion for DNA testing, filed under authority of Chapter 64 of the Code of Criminal Procedure. The habeas court agrees he is entitled to relief and recommends granting an out-of-time appeal. Article 11.07

post-conviction habeas corpus does not provide a remedy for Chapter 64 appeals. Applicant's recourse is to file a second motion for DNA testing in the trial court and appeal its denial, if necessary. *Davis v. State*, 502 S.W.3d 803 (Tex. Crim. App. 2016). Relief is denied.

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