IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-93,399-01

EX PARTE JECORY ROBERT MAY, Applicant

ON APPLICATION FOR A WRIT OF HABEAS CORPUS CAUSE NO. W366-82038-04-HC IN THE 366TH DISTRICT COURT FROM COLLIN COUNTY

***Per curiam*. HERVEY AND YEARY, JJ., dissented.**

O P I N I O N

Applicant was convicted of sexual assault of a child and sentenced to ten years' imprisonment. He did not appeal his conviction. 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.

In a single ground, Applicant contended that he is actually innocent. Applicant and the State jointly signed agreed proposed findings of fact and conclusions of law. The trial court adopted these, found the complainant's recantations credible, concluded that Applicant established that he is actually innocent, and recommended that the Court grant him a new trial. This Court remanded the case, ordering the trial court to (1) conduct a live evidentiary hearing on the matter at which the

complainant would be called to testify; and (2) to make specific supplemental findings. The trial court conducted the ordered evidentiary hearing, made agreed supplemental agreed findings of fact and conclusion of law, and again recommends that the Court grant Applicant relief on actual innocence grounds.

Relief is granted. *Ex parte Elizondo*, 947 S.W.2d 202 (Tex. Crim. App. 1996); *Ex parte Tuley*, 109 S.W.3d 388 (Tex. Crim. App. 2002). The judgment in cause number 366-82038-04 in the 366th District Court of Collin County is set aside, and Applicant is remanded to the custody of the Sheriff of Collin 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.

Delivered: September 7, 2022
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