



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-95,393-01

EX PARTE MELVIN MITCHELL, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 1367435-A IN THE 339TH DISTRICT COURT
FROM HARRIS COUNTY**

Per curiam. MCCLURE, J., did not participate.

OPINION

Applicant pleaded guilty to possession with intent to deliver a controlled substance and was sentenced to four years' imprisonment. Applicant did not file a direct appeal. 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 has discharged this sentence. The habeas court finds credible Applicant's assertion that he continues to suffer consequences arising from this conviction, including its negative effects on his ability to find and job and a place to live and its availability to enhance the penalty in a subsequent case. Therefore, Applicant is "confined" for purposes of Article 11.07.

Applicant claims that he was denied due process through the use of material false

evidence, and that his guilty plea was involuntary. These claims relate to the discovery of misconduct by former Houston Police Officer Gerald Goines, who was the primary officer involved in the alleged offense. Based on the record, the habeas court finds that Applicant was denied due process by the use of material false evidence against him, and that Applicant's guilty plea was involuntary. *Ex parte Mathews*, 638 S.W.3d 685 (Tex. Crim. App. 2022); *Ex parte Coty*, 418 S.W.3d 597 (Tex. Crim. App. 2014). The habeas court recommends granting relief on false evidence and involuntary plea grounds. We agree.

Relief is granted. *Ex parte Chabot*, 300 S.W.3d 768, 772 (Tex. Crim. App. 2009). The judgment in cause number 136743501010 in the 339th District Court of Harris County is set aside. Applicant shall answer the charges as set out in the indictment. The trial court shall issue any necessary orders within ten days from the date of this Court's mandate.

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

Delivered: April 17, 2024
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