



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-81,450-02

EX PARTE BILLY FAIRCLOTH, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. D-1-DC-11-200824-A IN THE 167TH DISTRICT COURT
FROM TRAVIS COUNTY**

Per curiam. YEARY, J., concurred. NEWELL, J., did not participate.

OPINION

Applicant was convicted of aggravated assault with a deadly weapon and sentenced to sixty years' imprisonment. The Third Court of Appeals affirmed his conviction. *Faircloth v. State*, No. 03-12-00133-CR (Tex. App.—Austin May 20, 2013) (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, among other things, that unreliable DNA evidence was relied upon to secure his conviction. The State and the habeas court both agree that he is entitled to relief on the basis of Texas Code of Criminal Procedure Article 11.073.

Relief is granted. The judgment in cause number D-1-DC-11-200824-A in the 167th District

Court of Travis County is set aside, and Applicant is remanded to the custody of the Sheriff of Travis 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.

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: March 29, 2023
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