



## IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NOS. WR-90,980-01 & WR-90,980-02

**EX PARTE OTIS MALLET, JR., Applicant**

---

---

**ON APPLICATIONS FOR WRITS OF HABEAS CORPUS  
CAUSE NOS. 1164940-A & 1248132-A  
IN THE 338<sup>TH</sup> DISTRICT COURT FROM HARRIS COUNTY**

---

---

***Per curiam.* RICHARDSON, J. filed a concurring opinion joined by HERVEY, NEWELL, and WALKER JJ., YEARY, J. filed a concurring opinion, NEWELL, J. filed a concurring opinion joined by HERVEY, RICHARDSON, AND WALKER JJ. . KELLER, P.J. and KEASLER, J. concurred.**

### O P I N I O N

Applicant was convicted of possession with intent to deliver a controlled substance and delivery of a controlled substance, and sentenced to eight years' imprisonment in each cause. The Fourteenth Court of Appeals affirmed his convictions. *Mallet v. State*, Nos. 14-11-00094-CR & 14-11-00095-CR (Tex. App.—Houston [14<sup>th</sup> Dist.] Aug. 30, 2012)(not designated for publication). Applicant filed these applications for writs of habeas corpus in the county of conviction, and the district clerk forwarded them to this Court. *See* TEX. CODE CRIM. PROC. art. 11.07.

Applicant contends, among other things, that he is actually innocent of the charges against

him. The State and the trial court agree that there is new evidence showing that Applicant is actually innocent of the crimes for which he was convicted. The State and the trial court both recommend granting relief. We agree. Applicant is entitled to relief.

Relief is granted. The judgments in Cause Nos. 1164940 & 1248132 in the 178<sup>th</sup> Judicial District Court of Harris County are set aside, and Applicant is remanded to the Harris County Sheriff so the charges can be dismissed. The trial court shall issue any necessary bench warrant within 10 days after the mandate of this Court issues.

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

Delivered: July 1, 2020  
Do Not Publish