



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. AP-76,575

EX PARTE ANTONIO DAVILA JIMENEZ, Applicant

ON APPLICATION FOR WRIT OF HABEAS CORPUS CAUSE NO.
1990CR4654-W3 IN THE 187th DISTRICT COURT FROM
BEXAR COUNTY

MEYERS, J., filed a dissenting opinion.

DISSENTING OPINION

I agree with the majority that Applicant is not entitled to relief based on his conviction being void since he had the status of a felon when he was arrested. However, the facts of this case fit the criteria for an actual innocence claim under our opinion in *Ex Parte Elizondo*, 947 S.W.2d 202 (Tex. Crim. App. 1996). It is possible that if a new jury saw the newly discovered evidence, they would not have convicted Applicant. I would grant relief because the underlying felony conviction used to support his conviction for unlawful possession of a firearm by a felon was set aside. Therefore, I respectfully dissent.

Meyers, J.

Filed: February 8, 2012

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