



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-81,430-02

EX PARTE JAMARIOS LECHRISTOPHER CANTON, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. F1017409 IN THE 145TH DISTRICT COURT
FROM NACOGDOCHES COUNTY**

Per curiam.

OPINION

Pursuant to the provisions of Article 11.07 of the Texas Code of Criminal Procedure, the clerk of the trial court transmitted to this Court this application for a writ of habeas corpus. *Ex parte Young*, 418 S.W.2d 824, 826 (Tex. Crim. App. 1967). Applicant was convicted of aggravated assault and sentenced to life imprisonment. The Twelfth Court of Appeals affirmed his conviction. *Canton v. State*, No. 12-12-00118-CR (Tex. App. — Tyler, December 20, 2012). This Court dismissed his petition for discretionary review as untimely filed.

Applicant contends that his *pro se* petition for discretionary review was erroneously dismissed as untimely by this Court, because he placed it into the mail on the last day before the

filing deadline. This Court remanded to the trial court two times to try to ascertain whether Applicant did place his petition in the mail before the filing deadline, and if so why the petition was not received by this Court until fourteen days after the filing deadline. No records could be obtained from the prison mail system to indicate when Applicant's petition was placed in the mail, and although the mail room supervisor provided several possible explanations for this Court's delay in receiving the petition, it cannot be determined with any certainty why the petition was not received until fourteen days after the filing deadline.

We find, therefore, that due to a breakdown in the system, Applicant was deprived of his right to petition this Court for discretionary review. *See Ex parte Riley*, 193 S.W. 3d 900 (Tex. Crim. App. 2006). Applicant is granted the opportunity to file an out-of-time petition for discretionary review of the judgment of the Twelfth Court of Appeals in Cause No. 12-12-00118-CR that affirmed his conviction in Cause No. F1017409 from the 145th District Court of Nacogdoches County. Applicant shall file his petition for discretionary review with this Court within 30 days of the date on which this Court's mandate issues.

Delivered: April 22, 2015
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