



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-82,561-01

EX PARTE FERNANDO MAGALDE, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 20110D05035-120-2 IN THE 120th DISTRICT COURT
FROM EL PASO 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 violation of a protective order and sentenced to forty years' imprisonment. The Eighth Court of Appeals affirmed his conviction. *Magalde v. State*, No. 08-12-00065-CR (Tex. App.—El Paso Mar. 28, 2014) (not designated for publication).

Applicant contends that he was deprived of his right to pursue a petition for discretionary review on his own due to a clerical error on the part of the El Paso County Public Defender's Office.

Based on the record, the trial court has entered findings of fact and conclusions of law that

Applicant was deprived of his right to pursue a petition for discretionary review due to a clerical error in this case. The trial court recommends that relief be granted. *Ex parte Riley*, 193 S.W.3d 900 (Tex. Crim. App. 2006).

We find, therefore, that Applicant is entitled to the opportunity to file an out-of-time petition for discretionary review of the judgment of the Eighth Court of Appeals in Cause No. 08-12-00065-CR that affirmed his conviction in Cause No. 20110D05035-120-2 from the 120th District Court of El Paso 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: January 14, 2015
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