



## IN THE COURT OF CRIMINAL APPEALS OF TEXAS

**NO. WR-82,911-01**

**EX PARTE FRANCISCO DURAN, JR, Applicant**

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS  
CAUSE NO. 2012-DCR-867-I IN THE 445th DISTRICT COURT  
FROM CAMERON 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 burglary of a habitation with intent to commit aggravated assault and sentenced to twenty-five years' imprisonment. The Thirteenth Court of Appeals affirmed his conviction. *Duran v. State*, No. 13-12-00344-CR (Tex. App.—Corpus Christi—Edinburg July 3, 2013) (not designated for publication).

Applicant contends that his appellate counsel rendered ineffective assistance because counsel failed to advise him of his right to file a *pro se* petition for discretionary review.

Appellate counsel filed an affidavit with the trial court. Based on that affidavit, the trial court has entered findings of fact and conclusions of law that appellate counsel failed to advise Applicant of his right to file a *pro se* petition for discretionary review. The trial court recommends that relief be granted. *Ex parte Wilson*, 956 S.W.2d 25 (Tex. Crim. App. 1997).

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 Thirteenth Court of Appeals in Cause No. 13-12-00344-CR that affirmed his conviction in Cause No. 2012-DCR-867-I from the 445th District Court of Cameron 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: March 25, 2015  
Do not publish