



# IN THE COURT OF CRIMINAL APPEALS OF TEXAS

**NO. WR-44,695-10**

**EX PARTE CARLOS CARDENAS HERNANDEZ, Applicant**

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS  
CAUSE NO. 2010R-0113-A IN THE 155TH DISTRICT COURT  
FROM AUSTIN COUNTY**

*Per curiam.* KELLER, P.J., dissents.

## 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 ninety years' imprisonment. The First Court of Appeals affirmed his conviction. *Hernandez v. State*, No. 01-12-00165-CR (Tex. App.—Houston [1st Dist.] Oct. 8, 2013) (not designated for publication).

In a single ground, Applicant contends that he was denied his right to file a petition for discretionary review. The trial court made findings of fact and concluded that Applicant's claim was

barred by the doctrine of laches. *See Ex parte Perez*, 398 S.W.3d 206 (Tex. Crim. App. 2013). We disagree.

We find that Applicant is entitled to the opportunity to file an out-of-time petition for discretionary review of the judgment of the First Court of Appeals in cause number 01-12-00165-CR that affirmed his conviction in cause number 2010R-0113 in the 155th District Court of Austin 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: June 14, 2017  
Do not publish