



## IN THE COURT OF CRIMINAL APPEALS OF TEXAS

**NO. WR-86,355-01**

**EX PARTE GILBERTO GONZALEZ AGUILAR, Applicant**

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS  
CAUSE NO. 065226 IN THE 15TH DISTRICT COURT  
FROM GRAYSON 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 possession with the intent to distribute 400 grams or more of a controlled substance and sentenced to life imprisonment. The Fifth Court of Appeals affirmed his conviction. *Aguilar v. State*, No. 05-15-00535-CR (Tex. App.—Dallas Apr. 27, 2016)(not designated for publication).

Applicant contends that his appellate counsel rendered ineffective assistance because counsel failed to timely notify Applicant that his conviction had been affirmed and failed to timely inform

Applicant of his right to file a *pro se* petition for discretionary review.

Appellate counsel filed an affidavit with the trial court. The trial court has entered findings of fact and conclusions of law that Applicant was improperly denied the opportunity to seek 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 Fifth Court of Appeals in Cause No. 05-15-00535-CR that affirmed his conviction in Cause No. 065226 from the 15<sup>th</sup> District Court of Grayson 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: February 15, 2017  
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