



# IN THE COURT OF CRIMINAL APPEALS OF TEXAS

**NO. WR-86,437-01**

**EX PARTE MARK ALLEN GREEN, Applicant**

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS  
CAUSE NO. C-34,826-CR  
IN THE COUNTY COURT AT LAW OF NAVARRO COUNTY  
FROM NAVARRO 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 continuous sexual abuse of a child and sentenced to fifty years' imprisonment. The Tenth Court of Appeals affirmed his conviction. *Green v. State*, No. 10-13-00131-CR (Tex. App.—Waco Jun. 26, 2014) (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. We remanded this

application to the trial court for findings of fact and conclusions of law.

Appellate counsel filed an affidavit with the trial court. The trial court has entered findings of fact and conclusions of law that counsel did not err, but Applicant may be entitled to relief under a “breakdown in the system.” *Ex parte Riley*, 193 S.W.3d 900 (Tex. Crim. App. 2006).

Based on this Court’s independent review of the record, we find that Applicant is entitled to the opportunity to file an out-of-time petition for discretionary review of the judgment of the Tenth Court of Appeals in Cause No. 10-13-00131-CR that affirmed his conviction in Cause No. C34,826 from the County Court of Law of Navarro County. *Ex parte Riley*, 193 S.W.3d 900 (Tex. Crim. App. 2006). 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: September 13, 2017  
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