



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-86,448-01

EX PARTE JAMES CARL SCHMIDT, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 2-15-29-A IN THE 382ND DISTRICT COURT
FROM ROCKWALL 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 assault of a public servant and sentenced to eight years' imprisonment. The Fifth Court of Appeals affirmed his conviction. *Schmidt v. State*, No. 05-15-01240-CR (Tex. App.—Dallas Jul. 21, 2016) (not designated for publication).

Applicant contends that he was deprived of his right to pursue discretionary review because he was not timely notified of the appellate decision in this case.

The trial court has entered agreed findings of fact and conclusions of law that appellate counsel failed to timely notify Applicant that his conviction had been affirmed. 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. 05-15-01240-CR that affirmed his conviction in Cause No. 2-15-29 from the 382nd District Court of Rockwall 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 22, 2017
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