



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NOS. WR-86,627-01, WR-86,627-02, WR-86,627-03 AND WR-86,627-04

EX PARTE RAUL MIRABAL, Applicant

**ON APPLICATIONS FOR WRITS OF HABEAS CORPUS
CAUSE NOS. C-396-010995-1309930-A, C-396-010996-1309990-A,
C-396-010998-1310196-A AND C-396-010997-1310195-A
IN THE 396TH DISTRICT COURT
FROM TARRANT 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 these applications for writs of habeas corpus. *Ex parte Young*, 418 S.W.2d 824, 826 (Tex. Crim. App. 1967). Applicant was convicted of one count of aggravated assault and one count of unlawful restraint in the -01 case, two counts of violation of a protective order in the -02 case, one count of aggravated sexual assault in the -03 case, and one additional count of violation of a protective order in the -04 case. Applicant was sentenced to concurrent twenty and ten-year sentences in the -01 case, concurrent ten-year sentences in the -02

case, forty-five years in the -03 case, and ten years in the -04 case, with all sentences running concurrently. The Second Court of Appeals affirmed his convictions. *Mirabal v. State*, Nos. 02-15-00041-CR, 02-15-00042-CR, 02-15-00043-CR and 02-15-00044-CR (Tex. App. — Fort Worth, Nov. 25, 2015) (not designated for publication).

Applicant contends, among other things, that his appellate counsel rendered ineffective assistance because counsel failed to timely notify Applicant that his convictions had been affirmed and failed to advise him of his right to petition *pro se* for discretionary review. The habeas records contain a copy of a letter from appellate counsel to Applicant, in which appellate counsel concedes that he erred by failing to timely advise Applicant that his convictions had been affirmed and that he had a right to pursue discretionary review *pro se*. Applicant filed a request for an extension of time to file his petition for discretionary review which this Court denied on March 4, 2016, because it was filed well after the deadline for obtaining an extension under Rule 68.2(c) of the Texas Rules of Appellate Procedure.

Based on the record, the trial court has entered findings of fact and conclusions of law that appellate counsel failed to timely notify Applicant that his convictions had been affirmed and failed to advise him of his right to petition for discretionary review *pro se*. 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 judgments of the Second Court of Appeals in Cause Nos. 02-15-00041-CR, 02-15-00042-CR, 02-15-00044-CR and 02-15-00043-CR that affirmed his convictions in Cause Nos. C-396-010995-1309930-A, C-396-010996-1309990-A, C-396-010998-1310196-A and C-396-010997-1310195-A from the 396th District Court of Tarrant 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.

Applicant's remaining claims are dismissed. *See Ex parte Torres*, 943 S.W.2d 469 (Tex. Crim. App. 1997).

Delivered: April 26, 2017
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