



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-87,172-01

EX PARTE DEREK EUGENE JOHNSON, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 1434376-A IN THE 338TH DISTRICT COURT
FROM HARRIS 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 aggravated robbery and sentenced to thirty years' imprisonment. The Fourteenth Court of Appeals affirmed his conviction. *Johnson v. State*, No. 14-15-00521-CR (Tex. App.—Houston [14th Dist.] Sep. 15, 2016).

Applicant contends that he was denied his right to pursue a petition for discretionary review in this Court after his conviction was affirmed. Appellate counsel, who is also habeas counsel, has filed an affidavit explaining that her office did not receive notice or a copy of the opinion until after

the mandate had issued. The State agrees that relief should be granted, and the trial court recommends that relief be granted. *See Ex parte Riley*, 193 S.W.3d 900 (Tex.Crim.App. 2006); *Ex parte Crow*, 180 S.W.3d 135 (Tex.Crim.App. 2005).

Relief is granted. Applicant is entitled to the opportunity to file an out-of-time petition for discretionary review of the judgment of the Fourteenth Court of Appeals in Cause No. 14-15-00521-CR that affirmed his conviction in Cause No. 1434376 from the 338th District Court of Harris 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: September 13, 2017
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