



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NOS. WR-72,382-04 & -05

EX PARTE GARY L. KENNEDY, Applicant

ON APPLICATIONS FOR WRITS OF HABEAS CORPUS
CAUSE NOS. 2015CR3877-W1 & 2014CR7948-W1
IN THE 227TH DISTRICT COURT FROM BEXAR 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). Pursuant to a plea bargain, Applicant was convicted of violation of annual sex offender registration and cruelty to non-livestock animals and sentenced to fifteen years' imprisonment in each case, to run concurrently. The Fourth Court of Appeals dismissed his direct appeals. *Kennedy v. State*, Nos. 04-16-00673-CR & 04-16-00674-CR (Tex. App.—San Antonio Nov. 30, 2016) (not designated for publication).

Applicant contends, among other things, that his appellate counsel failed to timely advise him of his right to file a *pro se* petition for discretionary review (PDR).

The trial court has entered findings of fact and conclusions of law that Applicant was denied the opportunity to seek discretionary review. The trial court recommends that relief be granted.

We conclude that there was a breakdown in the system. *Ex parte Riley*, 193 S.W.3d 900, 902 (Tex. Crim. App. 2006). 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 Fourth Court of Appeals in Cause Nos. 04-16-000673-CR & 04-16-00674-CR that affirmed his convictions in Cause Nos. 2014CR7948 & 2015CR3877 from the 227th District Court of Bexar County. Applicant shall file his petitions 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: January 10, 2018
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