



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-90,759-01

EX PARTE KENNETH WAYNE ACY JR., Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. A-14-1120-SA-W-1 IN THE 51ST DISTRICT COURT
FROM TOM GREEN COUNTY**

Per curiam.

OPINION

Applicant was convicted of two counts of aggravated assault and one count of unlawful possession of a firearm by a felon and was sentenced to imprisonment. He filed this application for a writ of habeas corpus in the county of conviction, and the district clerk forwarded it to this Court. *See* TEX. CODE CRIM. PROC. art. 11.07.

Applicant contends that he was denied his right to an appeal through no fault of his own. The trial court has entered findings and recommends that a late appeal be granted. The trial court's findings and recommendation are supported by the habeas record and applicable law. *Ex parte Axel*, 757 S.W.2d 369 (Tex. Crim. App. 1988); *Jones v. State*, 98 S.W.3d 700 (Tex. Crim. App. 2003).

Relief is granted. Applicant may file an out-of-time appeal of his convictions in cause

number A-14-1120-SA from the 51st District Court of Tom Green County. Within ten days from the date of this Court's mandate, the trial court shall determine whether Applicant is indigent. If Applicant is indigent and wants to be represented by counsel, the trial court shall appoint counsel to represent him on direct appeal. All deadlines shall be calculated as if Applicant was sentenced on the date of this Court's mandate. Should Applicant decide to appeal, he must file a written notice of appeal in the trial court within thirty days from the date of this Court's mandate.

Copies of this opinion shall be sent to the Texas Department of Criminal Justice—Correctional Institutions Division and the Board of Pardons and Paroles.

Delivered: January 29, 2020
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