



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-91,290-01

EX PARTE MATTHEW LEE MCQUEEN, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 12744-A IN THE 32ND DISTRICT COURT
FROM NOLAN COUNTY**

Per curiam.

OPINION

Applicant was convicted of engaging in organized criminal activity and sentenced to fifty-four years' imprisonment. Applicant, through habeas counsel, 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 because his trial counsel failed to timely file a notice of appeal. The trial court has entered findings indicating that trial counsel failed to timely file a notice of appeal although Applicant instructed him to do so. The trial court recommends granting a late appeal. The findings and recommendation are supported by the record and applicable law.

Relief is granted. *Ex parte Axel*, 757 S.W.2d 369 (Tex. Crim. App. 1988); *Jones v. State*, 98 S.W.3d 700 (Tex. Crim. App. 2003). Applicant may file an out-of-time appeal of his conviction in cause number 12744 from the 32nd District Court of Nolan 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: December 16, 2020
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