



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-91,935-01

EX PARTE MICHAEL ANDREW GUERRA, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 010874-A IN THE 259TH DISTRICT COURT
FROM JONES COUNTY**

Per curiam.

OPINION

Applicant was convicted of indecency with a child by contact and sentenced to 5 years' 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 because counsel failed to timely file a notice of appeal. Based on the record, the trial court has found that counsel failed to timely file a notice of appeal.

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 010874 from the 259th District Court of Jones County. It appears that Applicant

is represented by counsel. However, if Applicant is not represented by counsel, the trial court shall determine, within ten days from the date of this Court's mandate, 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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