



## IN THE COURT OF CRIMINAL APPEALS OF TEXAS

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NO. AP-76,728

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**EX PARTE FORREST ARCENEUX, Applicant**

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**ON APPLICATION FOR A WRIT OF HABEAS CORPUS  
CAUSE NO. 839607 IN THE 177<sup>TH</sup> DISTRICT COURT  
FROM HARRIS COUNTY**

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*Per curiam.*

### O P I N I O N

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 writ of habeas corpus. *Ex parte Young*, 418 S.W.2d 824, 826 (Tex. Crim. App. 1967). Applicant was convicted of aggravated kidnapping and sentenced to life imprisonment. The Tenth Court of Appeals affirmed his conviction. *Arceneaux v. State*, No. 10-00-00221-CR (Tex. App.—Waco, delivered May 2, 2001).

Applicant contends that his appellate counsel rendered ineffective assistance because counsel failed to timely notify Applicant that his conviction had been affirmed and that he had a right to file a *pro se* petition for discretionary review. The State agrees that Applicant is entitled to relief.

The trial court has entered agreed findings of fact and conclusions of law that appellate counsel failed to timely notify Applicant that his conviction had been affirmed. The trial court recommends that relief be granted. *Ex parte Wilson*, 956 S.W.2d 25 (Tex. Crim. App. 1997). 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 Tenth Court of Appeals in Cause No. 10-00-00221-CR that affirmed his conviction in Case No. 839607 from the 177th Judicial 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: February 22, 2012  
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