



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. AP-76,767

EX PARTE TROY HUFFMASTER, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 08 CR 2271 F IN THE 214TH DISTRICT COURT
FROM NUECES 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 this application for writ of habeas corpus. *Ex parte Young*, 418 S.W.2d 824, 826 (Tex. Crim. App. 1967). Applicant was convicted of escape and sentenced to twenty-five years' imprisonment. The Thirteenth Court of Appeals affirmed his conviction. *Huffmaster v. State*, No. 13-08-599-CR (Tex. App. Corpus Christi, May 28, 2009) (unpublished).

Applicant contends that his appellate counsel rendered ineffective assistance because counsel failed to timely notify Applicant that his conviction had been affirmed and failed to advise him of

his right to petition for discretionary review *pro se*.

Appellate counsel filed an affidavit with the trial court stating that he could not find the file and could not say whether Applicant had been notified. The trial court recommends that relief be granted. Based on this Court's review of the record, we find that Applicant is entitled to the opportunity to file an out-of-time petition for discretionary review of the judgment of the Ninth Court of Appeals in Cause No. 13-08-00599-CR that affirmed his conviction in Case Number 08 CR 2271 F from the 214th Judicial District Court of Nueces County. *Ex parte Wilson*, 956 S.W.2d 25 (Tex. Crim. App. 1997); TEX. R. APP. P. 48.4. 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: April 4, 2012
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