



## IN THE COURT OF CRIMINAL APPEALS OF TEXAS

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NO. AP-76,813

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**EX PARTE PEDRO YEBRA, Applicant**

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**ON APPLICATION FOR A WRIT OF HABEAS CORPUS  
CAUSE NO. 20100D00017 IN THE 120TH DISTRICT COURT  
FROM EL PASO COUNTY**

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*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 a writ of habeas corpus. *Ex parte Young*, 418 S.W.2d 824, 826 (Tex. Crim. App. 1967). Applicant was convicted of aggravated assault and sentenced to fifty-six years' imprisonment.

Applicant contends his counsel rendered ineffective assistance because counsel failed to file a timely notice of appeal. The State concedes Applicant is entitled to an out-of-time appeal, and the writ record provided to this Court shows that relief should be granted. Applicant manifested a desire to appeal. The appeal, however, was not perfected, and Applicant's right to an entire judicial proceeding was denied to him through no fault of his own. *See Ex parte Axel*, 757 S.W.2d 369 (Tex.

Crim. App. 1988); *Ex parte Galvan*, 770 S.W.2d 822 (Tex. Crim. App. 1989); *Ex parte Crow*, 180 S.W.3d 135 (Tex. Crim. App. 2005). Relief is granted.

Applicant is entitled to the opportunity to file an out-of-time appeal of the judgment of conviction in Cause No. 20100D00017 from the 120th District Court of El Paso County. Applicant is ordered returned to that time at which he may give a written notice of appeal so that he may then, with the aid of counsel, obtain a meaningful appeal. Within ten days of the issuance of this opinion, the trial court shall determine whether Applicant is indigent. If Applicant is indigent and wishes to be represented by counsel, the trial court shall immediately appoint an attorney to represent Applicant on direct appeal. All time limits shall be calculated as if the sentence had been imposed on the date on which the mandate of this Court issues. We hold that, should Applicant desire to prosecute an appeal, he must take affirmative steps to file a written notice of appeal in the trial court within 30 days after the mandate of this Court issues.

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

Delivered: June 6, 2012  
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