



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. AP-76,841

EX PARTE ALBERT IBBARRA SALAS, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 0847394D IN THE 372ND DISTRICT COURT
FROM TARRANT 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 a writ of habeas corpus. *Ex parte Young*, 418 S.W.2d 824, 826 (Tex. Crim. App. 1967). Applicant was convicted of aggravated sexual assault and sentenced to thirty years' imprisonment. The Second Court of Appeals affirmed his conviction. *Salas v. State*, No. 02-04-00280-CR (Tex. App.—Fort Worth 2005, no pet.).

Applicant contends that his appellate counsel rendered ineffective assistance because he failed to timely notify Applicant that his conviction had been affirmed and failed to advise him of his right to petition *pro se* for discretionary review.

Appellate counsel filed an affidavit with the trial court. Based on that affidavit, the trial court

has entered findings of fact and conclusions of law that appellate counsel failed to advise Applicant of his right to petition for discretionary review *pro se*. 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 Second Court of Appeals in case number 02-04-00280-CR that affirmed his conviction in cause number 0847394D from the 372nd District Court of Tarrant 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. Applicant's remaining claim is dismissed. *Ex parte Torres*, 943 S.W.2d 469 (Tex. Crim. App. 1997).

Delivered: August 22, 2012
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