



## IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-76,787-02

**EX PARTE CLYDE JAMES FREEMAN, Applicant**

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS  
CAUSE NO. 09-11-11188-CR(2) IN THE 435<sup>TH</sup> DISTRICT COURT  
FROM MONTGOMERY 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 driving while intoxicated and sentenced to forty years' imprisonment. The Fourteenth Court of Appeals affirmed his conviction. *Freeman v. State*, No. 14-12-00077-CR (Tex. App.–Houston September 24, 2013).

Applicant contends that his appellate counsel rendered ineffective assistance because counsel failed to timely notify Applicant that his conviction had been affirmed. 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 Applicant is entitled to relief and recommends that relief be granted. *Ex parte Riley*, 193 S.W.3d 900 (Tex. Crim. App. 2006).

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 Fourteenth Court of Appeals in Cause No. 14-12-00077-CR that affirmed his conviction in Cause No. 09-11-11188-CR from the 435<sup>th</sup> District Court of Montgomery 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: May 7, 2014  
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