



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-80,127-02

EX PARTE ROBERT TERRANCE DUNN, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 1114177 IN THE 262ND DISTRICT COURT
FROM HARRIS 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 indecency with a child and sentenced to ten years' imprisonment. The Fourteenth Court of Appeals affirmed his conviction. *Dunn v. State*, No. 14-08-00442-CR (Tex. App.—Houston [1st Dist.] Jun. 2, 2009) (unpublished).

Applicant contends that his appellate counsel rendered ineffective assistance because counsel did not timely notify Applicant that his conviction had been affirmed and failed to advise him of his

right to petition *pro se* for discretionary review. We remanded this application to the trial court for additional findings of fact and conclusions of law.

Appellate counsel filed an affidavit with the trial court and, after remand, mail logs from the Texas Department of Criminal Justice and the Harris County Jail were submitted. The trial court has entered findings of fact and conclusions of law that appellate counsel did not comply with Rule of Appellate Procedure 48.4 and Applicant did not receive notice 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 Fourteenth Court of Appeals in Cause No. 14-08-00442-CR that affirmed his conviction in Cause No. 1114177 from the 262nd 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.

Applicant's remaining claims are dismissed. *Ex parte Torres*, 943 S.W.2d 469 (Tex. Crim. App. 1997).

Delivered: June 4, 2014
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