



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-80,853-01

EX PARTE MARTIN MENDOZA REYNOZA, Applicant

ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. CR 08A-010 IN THE 222ND DISTRICT COURT
FROM DEAF SMITH COUNTY

Per curiam.

O P I N I O N

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 murder and sentenced to ninety-nine years' imprisonment. The Seventh Court of Appeals affirmed his conviction. *Reynoza v. State*, 07-08-00452-CR (Tex. App.—Amarillo delivered Sep. 3, 2009).

Applicant contends that appellate counsel rendered ineffective assistance because

counsel failed to timely notify Applicant that conviction had been affirmed. We remanded this application to the trial court for findings of fact and conclusions of law.

Appellate counsel filed an affidavit with the trial court stating that he sent Applicant a timely letter. However, an affidavit from the Texas Department of Criminal Justice's mail system coordinator shows that Applicant did not receive that letter. Based on those affidavits, the trial court has entered findings of fact and conclusions of law that Applicant was denied the right to file a *pro se* petition of discretionary review. The trial court recommends that relief be granted. *Ex parte Riley*, 193 S.W.3d 900 (Tex. Crim. App. 2003).

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 Seventh Court of Appeals in Cause No. 07-08-00452-CR that affirmed conviction in Cause No. CR08A-010 from the 222nd District Court of Walker County. Applicant shall file petition for discretionary review with this Court within 30 days of the date on which this Court's mandate issues.

Delivered: June 4, 2014

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