



## IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NOS. WR-81,228-01 & WR-81,228-02

**EX PARTE JOE MIKE MADRID II, Applicant**

**ON APPLICATIONS FOR WRITS OF HABEAS CORPUS**  
**CAUSE NOS. W-19,877-B-1 & W-21,342-B-1**  
**IN THE 181<sup>ST</sup> DISTRICT COURT FROM RANDALL 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 these applications for writs of habeas corpus. *Ex parte Young*, 418 S.W.2d 824, 826 (Tex. Crim. App. 1967). Applicant was convicted of aggravated sexual assault of a child and indecency with a child. He was sentenced to ten years' confinement for each cause. The Seventh Court of Appeals affirmed his convictions. *Madrid v. State*, Nos. 07-10-0168 & 0169-CR (Tex. Crim. App.–Amarillo December 19, 2013).

Applicant contends that his appellate counsel rendered ineffective assistance because counsel failed to advise him of his right to file a *pro se* petition 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 although appellate counsel did advise Applicant that he had the right to petition this Court for discretionary review, he did not advise Applicant that he could file a *pro se* petition for discretionary review. 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 judgments of the Seventh Court of Appeals in Cause Nos. 07-10-0168-CR & 07-10-0169-CR that affirmed his convictions in Cause Nos. 19,877-B & 21,342-B from the 181<sup>st</sup> District Court of Randall 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: May 7, 2014  
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