



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-81,283-02

EX PARTE JIMMY H. GREEN, Applicant

ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 10CR3171 IN THE 122ND DISTRICT COURT
FROM GALVESTON 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 twenty-five years' imprisonment. The First Court of Appeals affirmed his conviction. *Green v. State*, No. 01-12-00029-CR (Tex. App.—Houston November 21, 2012).

Applicant contends that his appellate counsel rendered ineffective assistance because counsel failed to timely notify Applicant that he had a right to file a *pro se* petition for discretionary review.

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

attached letter from counsel, this Court finds that counsel did not properly inform Applicant that he had a right to file a *pro se* petition for discretionary review. *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 First Court of Appeals in Cause No. 01-12-00029-CR that affirmed his conviction in Cause No. 10CR3171 from the 122nd District Court of Galveston 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: July 23, 2014
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