



## IN THE COURT OF CRIMINAL APPEALS OF TEXAS

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NO. WR-82,152-01

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**EX PARTE RAFAEL ADRIAN AGUAYO, Applicant**

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**ON APPLICATION FOR A WRIT OF HABEAS CORPUS  
CAUSE NO. CR-0476-14-I IN THE 398TH DISTRICT COURT  
FROM HIDALGO COUNTY**

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*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 continuous sexual abuse of a child and sentenced to thirty-three years' imprisonment.

In this application, filed on Applicant's behalf by his appellate counsel, Applicant alleges that he was denied his right to appeal because notice of appeal was not timely filed. Appellate counsel states that the failure to timely file the notice of appeal was an oversight on her behalf, and was not through any fault of Applicant's.

The trial court has determined that appellate counsel failed to timely file a notice of appeal. We find that Applicant is entitled to the opportunity to file an out-of-time appeal of the judgment of conviction in Cause No. CR-0476-14-I from the 398th District Court of Hidalgo County. Applicant is ordered returned to that time at which he may give a written notice of appeal so that he may then, with the aid of counsel, obtain a meaningful appeal. Within ten days of the issuance of this opinion, the trial court shall determine whether Applicant is indigent. If Applicant is indigent and wishes to be represented by counsel, the trial court shall immediately appoint an attorney to represent Applicant on direct appeal. All time limits shall be calculated as if the sentence had been imposed on the date on which the mandate of this Court issues. We hold that, should Applicant desire to prosecute an appeal, he must take affirmative steps to file a written notice of appeal in the trial court within 30 days after the mandate of this Court issues.

Copies of this opinion shall be sent to the Texas Department of Criminal Justice-Correctional Institutions Division and Pardons and Paroles Division.

Delivered: October 15, 2014  
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