



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-82,334-01

EX PARTE APOLINAR MARQUEZ CAMPOSANO, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 08-05-04380-CR IN THE 284TH DISTRICT COURT
FROM MONTGOMERY 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 entered an open plea of guilty to murder, and was sentenced to thirty years' imprisonment. The trial court certified that he had retained the right to appeal matters related to sentencing.

Applicant contends that his appointed appellate counsel rendered ineffective assistance because he failed to timely file a notice of appeal. Appellate counsel has filed an affidavit in which he states that he did not timely file the notice of appeal, although he does not recall why not.

Appellate counsel also states that Applicant never wavered in his desire to pursue an appeal in this case.

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 matters related to sentencing in Cause No. 08-05-04380-CR from the 284th District Court of Montgomery 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: November 19, 2014
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