



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-74,676-03

EX PARTE JASON EARL WOOLEY, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 997,161 IN THE 176TH DISTRICT COURT
FROM HARRIS 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 murder and sentenced to forty years' imprisonment. The Fourteenth Court of Appeals affirmed his conviction. *Wooley v. State*, 223 S.W.3d 732 (Tex. App.—Houston [14th Dist.] 2007, pet. granted). This Court reversed and remanded the case. *Wooley v. State*, 273 S.W.3d 260 (Tex. Crim. App. 2008). Following remand, the Fourteenth Court of Appeals again affirmed Applicant's conviction. *Wooley v. State*, 14-06-00088-CR (Tex. App.—Houston [14th Dist.] Oct. 22, 2009)(not designated for

publication).

Applicant contends that his appellate counsel rendered ineffective assistance because counsel failed to timely notify Applicant that his conviction had been affirmed and failed to inform Applicant that he had a right to file a petition for discretionary review.

Appellate counsel filed an affidavit with the trial court. The trial court has entered findings of fact and conclusions of law that appellate counsel was not deficient. The trial court's findings are not supported by the record. Based on this Court's independent review of the entire record, this Court finds that appellate counsel failed to timely notify Applicant that his conviction had been affirmed and failed to provide Applicant notice of his 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 Fourteenth Court of Appeals in Cause No. 14-06-00088-CR that affirmed his conviction in Cause No. 997,161 from the 176th District Court of Harris 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.

Delivered: April 29, 2015
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