



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-82,009-02

EX PARTE JAVIER URIAS, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 20090D03338 IN THE 243rd DISTRICT COURT
FROM EL PASO 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 injury to a child and sentenced to forty-five years' imprisonment. The Eighth Court of Appeals affirmed his conviction. *Urias v. State*, No. 08-12-00090-CR (Tex. App.—El Paso Mar. 26, 2014) (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 advise him of

his right to petition *pro se* for discretionary review. We remanded this application to the trial court for findings of fact and conclusions of law.

After obtaining an affidavit from counsel and conducting a live evidentiary hearing, the trial court has entered findings of fact and conclusions of law that appellate counsel failed to timely notify Applicant that his conviction had been affirmed. 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 judgment of the Eighth Court of Appeals in Cause No. 08-12-00090-CR that affirmed his conviction in Cause No. 20090D03338 from the 243rd District Court of El Paso 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: May 20, 2015
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