



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-83,538-01

EX PARTE JOHNNY CASTILLO, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 11-10-10814-1-CR IN THE 38TH DISTRICT COURT
FROM MEDINA COUNTY**

Per curiam. RICHARDSON, J., not participating.

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 aggravated assault and sentenced to fifty years' imprisonment. He did not appeal his conviction.

Applicant contends, among other things, that counsel advised him to waive his right to appeal before sentencing and without an agreed recommendation from the State. We remanded this application to the trial court for findings of fact and conclusions of law. On remand, the trial court held a live evidentiary hearing, heard testimony, and recommended that we grant Applicant an out-

of-time appeal, if it could be said that his waiver of appeal was involuntary. We conclude that his waiver of appeal was involuntary. *Ex parte Townsend*, 538 S.W.2d 419, 420 (Tex. Crim. App. 1976); *Ex parte Thomas*, 545 S.W.2d 469, 470 (Tex. Crim. App. 1977),

Relief is granted. Applicant is entitled to the opportunity to file an out-of-time appeal of the judgment of conviction in cause number 11-10-10814-1-CR from the 38th District Court of Medina 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. Applicant's remaining claims are dismissed. *Ex parte Torres*, 943 S.W.2d 469 (Tex. Crim. App. 1997).

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

Delivered: June 15, 2016
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