



# IN THE COURT OF CRIMINAL APPEALS OF TEXAS

**NO. WR-83,925-01**

**EX PARTE JOSEPH WEBER, Applicant**

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS  
CAUSE NO. D-1-DC-13-904090-A IN THE 331ST DISTRICT COURT  
FROM TRAVIS 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 two counts of “super” aggravated sexual assault of a child, one count of continuous sexual abuse of a child, and two counts of indecency with a child. He was sentenced to imprisonment for three terms of seventy years and two terms of ten years.

Applicant contends that trial counsel failed to file a notice of appeal. We remanded this application to the trial court for findings of fact and conclusions of law. The trial court made

findings and conclusions and recommended that we grant relief.

We agree and conclude that trial counsel was ineffective for failing to file a notice of appeal. *Ex parte Axel*, 757 S.W.2d 369, 374 (Tex. Crim. App. 1988); *Jones v. State*, 98 S.W.3d 700, 703 (Tex. Crim. App. 2003). Applicant is entitled to the opportunity to file an out-of-time appeal of the judgments of conviction in cause number D-1-DC-13-904090-A from the 331st District Court of Travis 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: April 27, 2016  
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