



## IN THE COURT OF CRIMINAL APPEALS OF TEXAS

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NO. WR-84,451-01

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**EX PARTE DAVID RAY PENNY, Applicant**

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**ON APPLICATION FOR A WRIT OF HABEAS CORPUS  
CAUSE NO. 1323669A IN THE 8TH DISTRICT COURT  
FROM HOPKINS COUNTY**

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*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 continuous sexual abuse of a child and sentenced to life imprisonment. The Sixth Court of Appeals affirmed his conviction. *Penny v. State*, No. 06-14-00101-CR (Tex. App.—Texarkana del. Mar. 19, 2015) (not designated for publication).

Applicant contends that he was not notified that his conviction had been affirmed by the appellate court and advised of his right to petition *pro se* for discretionary review. He asks

permission to file an out-of-time petition for discretionary review. Appellate counsel filed an affidavit with the trial court, and based on that affidavit, the trial court has entered findings of fact and conclusions recommending that relief be granted. *Ex parte Wilson*, 956 S.W.2d 25 (Tex. Crim. App. 1997). The findings and recommendation are supported by the record.

Applicant is entitled to the opportunity to file an out-of-time petition for discretionary review of the judgment of the Sixth Court of Appeals in Cause No. 06-14-00101-CR that affirmed his conviction in Cause No. 1323669 from the 8th District Court of Hopkins 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: September 14, 2016  
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