



## IN THE COURT OF CRIMINAL APPEALS OF TEXAS

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NO. WR-84,620-01

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**EX PARTE EDWARD LEE CARTER, Applicant**

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**ON APPLICATION FOR A WRIT OF HABEAS CORPUS  
CAUSE NO. 2011CR1674-W1 IN THE 144TH DISTRICT COURT  
FROM BEXAR COUNTY**

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*Per curiam. Yeary, 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 two counts of aggravated sexual assault of a child and three counts of indecency with a child, and was sentenced to consecutive eleven-year and five-year sentences for the two aggravated sexual assault counts, and three concurrent two-year sentences for the indecency with a child counts. The Fourth Court of Appeals affirmed his conviction. *Carter v. State*, No. 04-13-00532-CR (Tex. App. — San Antonio, November 12, 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.

Appellate counsel filed an affidavit with the trial court. In addition, the trial court has obtained an affidavit from the Program Supervisor of the Mail Systems Coordinators Panel from TDCJ. Based on those affidavits, 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 and failed to advise him of his right to petition for discretionary review *pro se*. 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 Fourth Court of Appeals in Cause No. 04-13-00532-CR that affirmed his conviction in Cause No. 2011CR1674 from the 144th District Court of Bexar 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: March 9, 2016  
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