



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-77,838-03

EX PARTE CAL MAURICE BUTLER, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. W06-65525-V(B) IN THE 292ND DISTRICT COURT
FROM DALLAS 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 aggravated assault with a deadly weapon and sentenced to forty years' imprisonment. The Thirteenth Court of Appeals affirmed his conviction. *Butler v. State*, No. 05-13-01435-CR (Tex. App.—Dallas Oct. 20, 2014) (not designated for publication).

Applicant contends that his appellate counsel rendered ineffective assistance because counsel failed to inform Applicant of his right to file a *pro se* petition for discretionary review.

Appellate counsel filed an affidavit with the trial court. The trial court has entered findings

of fact and conclusions of law that appellate counsel failed to provide Applicant notice of his right to file a *pro se* petition for discretionary review, along with the applicable deadlines. 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 Thirteenth Court of Appeals in Cause No. 05-13-01435-CR that affirmed his conviction in Cause No. F-06-65525-V from the 292nd Judicial District Court of Dallas 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: October 4, 2017

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