



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-85,680-02

EX PARTE TERRIO LA JOE HOLIDAY, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 1383178-A IN THE 179TH DISTRICT COURT
FROM HARRIS 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 burglary of a habitation and sentenced to sixty years' imprisonment. The Fourteenth Court of Appeals affirmed his conviction. *Holiday v. State*, No. 14-14-00467-CR (Tex. App.—Houston [14th Dist.] Mar. 12, 2015) (not designated for publication).

Applicant contends that appellate counsel rendered ineffective assistance because he failed to advise him of his right to file a *pro se* petition for discretionary review. We remanded this

application to the trial court for findings of fact and conclusions of law.

Appellate counsel filed an affidavit with the trial court. Based on that affidavit, the trial court has entered findings of fact and conclusions of law that appellate counsel failed to timely advise Applicant of his right to file a *pro se* petition for discretionary review. The trial court recommended 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 Fourteenth Court of Appeals in case number 14-14-00467-CR that affirmed his conviction in 1383178 from the 179th District Court of Harris 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 29, 2017
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