



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-86,193-01

EX PARTE TERRY O'NELL HALL, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 17419-B IN THE 104TH DISTRICT COURT
FROM TAYLOR 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 entered an open plea of guilty to aggravated robbery, and was sentenced to twenty-five years' imprisonment. The Eleventh Court of Appeals affirmed his conviction. *Hall v. State*, No. 11-10-00253-CR (Tex. App. —Eastland, March 24, 2011) (not designated for publication).

Applicant contends that he was denied his right to petition this Court for discretionary review because the trial court appointed an attorney to represent Applicant in filing a petition for

discretionary review, then determined that the appointment was erroneous. Applicant was not notified of the error in time to file a *pro se* petition for discretionary review, and the letter he received from appointed counsel notifying him of the error did not specifically advise him of the deadline for filing a motion for an extension of time to file his petition for discretionary review. We remanded this application to the trial court for findings of fact and conclusions of law.

Appointed counsel filed an affidavit on remand, in which he confirmed that he did not specifically advise Applicant of the deadline for filing a motion for an extension of time to file a petition for discretionary review. Based on that affidavit and the record, the trial court has entered findings of fact and conclusions of law. The trial court finds that Applicant was deprived of the opportunity to petition this Court for discretionary review because he was under the impression that he was represented by counsel during the time to file a petition, and that but for the trial court's erroneous appointment of counsel, Applicant could have timely filed a *pro se* petition for discretionary review. The trial court recommends that relief be granted.

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 11th Court of Appeals in Cause No. 11-10-00253-CR that affirmed his conviction in Cause No. 11-10-00253-CR from the 104th District Court of Taylor 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: June 28, 2017
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