



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-86,292-02

EX PARTE ABDONAL DELGADO CESPEDES, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 1177834-A IN THE 179TH DISTRICT COURT
FROM HARRIS COUNTY**

Per curiam. Alcala, Newell, JJ. 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 aggravated sexual assault of a child and sentenced to life imprisonment. The First Court of Appeals affirmed his conviction. *Cespedes v. State*, No. 01-09-00866-CR (Tex. App.—Houston Mar. 10, 2011)(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. 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 notify Applicant that his conviction had been affirmed. 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 First Court of Appeals in Cause No. 01-09-00866-CR that affirmed his conviction in Cause No. 1177834 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: September 13, 2017
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