



# IN THE COURT OF CRIMINAL APPEALS OF TEXAS

**NO. WR-86,335-01**

**EX PARTE BRITTANY KESHAUN SIMMONS, Applicant**

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS  
CAUSE NO. 73,412-A IN THE 426th DISTRICT COURT  
FROM BELL 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 possession of a controlled substance and sentenced to 10 years' imprisonment.

Applicant contends that she is entitled to an out-of-time appeal in this case.

The trial court has determined that, through no fault of her own, Applicant's timely filed *pro se* notice of appeal was not properly forwarded to the Clerk of the Court of Appeals. We find that Applicant is entitled to the opportunity to file an out-of-time appeal of the judgment of conviction

in Cause No. 73,412-A from the 426th District Court of Bell County. Applicant is ordered returned to that time at which she may give a written notice of appeal so that she may then, with the aid of counsel, obtain a meaningful appeal. Within ten days of the issuance of this opinion, the trial court shall determine whether Applicant is indigent. If Applicant is indigent and wishes to be represented by counsel, the trial court shall immediately appoint an attorney to represent Applicant on direct appeal. All time limits shall be calculated as if the sentence had been imposed on the date on which the mandate of this Court issues. We hold that, should Applicant desire to prosecute an appeal, she must take affirmative steps to file a written notice of appeal in the trial court within 30 days after the mandate of this Court issues.

Copies of this opinion shall be sent to the Texas Department of Criminal Justice-Correctional Institutions Division and Pardons and Paroles Division.

Delivered: February 15, 2017  
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