



# IN THE COURT OF CRIMINAL APPEALS OF TEXAS

**NO. WR-86,584-01**

**EX PARTE ANGELITA FERNANDEZ, Applicant**

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS  
CAUSE NO. 7560A IN THE 32ND DISTRICT COURT  
FROM MITCHELL 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 possessing a prohibited item in a correctional facility and sentenced to eight years' imprisonment.

Applicant contends that she was denied her right to a direct appeal through no fault of her own. *See Ex parte Axel*, 757 S.W.2d 369 (Tex. Crim. App. 1988). Appellate counsel explains that when he was appointed, Applicant was already released to an appellate bond, so it was assumed that the notice of appeal had already been filed to vest jurisdiction in the appellate court. A notice of

appeal, however, had not been timely filed, so Applicant's direct appeal was later dismissed. *Fernandez v. State*, No. 11-16-00351-CR (Tex. App.—Eastland Jan. 6, 2017) (not designated for publication).

Applicant is entitled to the opportunity to file an out-of-time appeal of the judgment of conviction in Cause No. 7560 from the 32nd District Court of Mitchell 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: April 12, 2017  
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