



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NOS. WR-87,445-01 AND WR-87,445-02

EX PARTE LUIS DANIEL AYALA, Applicant

ON APPLICATIONS FOR WRITS OF HABEAS CORPUS
CAUSE NOS. CR-16E-093A AND CR-16E-092A IN THE 222ND DISTRICT COURT
FROM DEAF SMITH 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 these applications for writs of habeas corpus. *Ex parte Young*, 418 S.W.2d 824, 826 (Tex. Crim. App. 1967). Applicant pleaded guilty to one charge of possession of marijuana, and one charge of possession with intent to deliver a controlled substance. He was sentenced to thirty years' imprisonment for each of these charges. He also pleaded guilty to a third charge and true to a motion to revoke community supervision in the same proceeding. Although Applicant pleaded guilty pursuant to a plea agreement, he maintained the right to appeal from the trial court's ruling on his pre-trial motion to suppress evidence in all four cases.

Applicant contends that he was denied his right to appeal in these two cases, because the order appointing appellate counsel included the other two cause numbers but did not include these two cause numbers. As a result, appellate counsel was not timely appointed in these two cases, and notice of appeal was not timely filed in these two cases.

The trial court has determined that Applicant was effectively denied his right to appellate counsel in these cases due to a clerical error. We find that Applicant is entitled to the opportunity to file out-of-time appeals of the judgments of conviction in Cause Nos. CR-16E-093A and CR-16E-092A from the 22nd District Court of Deaf Smith County. Applicant is ordered returned to that time at which he may give a written notice of appeal so that he 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, he 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: October 18, 2017
Do not publish