



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NOS. WR-87,329-02 AND WR-87,329-03

EX PARTE EDWARD FERNANDEZ MEDRANO, Applicant

ON APPLICATIONS FOR WRITS OF HABEAS CORPUS
CAUSE NOS. CR35988A AND CR36058A IN THE 238TH DISTRICT COURT
FROM MIDLAND 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). A jury convicted Applicant of four offenses of indecency with a child by exposure and assessed prison terms. The trial court cumulated three of the prison terms to eight years and probated the other. Applicant appealed regarding the stacking order, but the appellate court affirmed the convictions. *Medrano v. State*, Nos. 11-12-00222-CR and 11-12-00223-CR (Tex. App.—Eastland del. Jul. 3, 2014).

In these habeas applications, Applicant contends that he was denied his right, through no fault

of his own, to pursue *pro se* petitions for discretionary review (PDRs) in this Court after his convictions were affirmed by the appellate court. *Ex parte Wilson*, 956 S.W.2d 25 (Tex. Crim. App. 1997). Applicant also attacks the merits of the convictions.

The trial court, adopting the State's prepared pleadings, recommends granting late PDRs. The findings and recommendation are supported by the habeas record except as they apply to the probated conviction. Because the probation for that count of conviction has not been revoked, this Court lacks jurisdiction to consider the claims related to it. TEX. CODE CRIM. PROC. art 11.072; *Ex parte Valdez*, 489 S.W.3d 462 (Tex. Crim. App. 2016).

This Court holds that Applicant is entitled to the opportunity to file out-of-time petitions for discretionary review of the judgments of the Eleventh Court of Appeals in Cause Nos. 11-12-00222-CR and 11-12-00223-CR that affirmed his convictions in Cause Nos. CR35988, CR36058–Count I, and CR36058–Count II from the 238th District Court of Midland County. Applicant shall file his petitions for discretionary review with this Court within 30 days of the date on which this Court's mandates issues.

Applicant's habeas claims attacking the merits of the non-probated convictions are dismissed. *Torres v. State*, 117 S.W.3d 891 (Tex. Crim. App. 2003); *Ex parte McPherson*, 32 S.W.3d 860 (Tex. Crim. App. 2000). Applicant's habeas claims regarding the conviction and probated sentence in Cause No. CR36058–Count III are dismissed. TEX. CODE CRIM. PROC. art 11.072; *Ex parte Valdez, supra*. Copies of this opinion shall be sent to the Texas Department of Criminal Justice-Correctional Institutions Division and Pardons and Paroles Division.

Delivered: September 12, 2018
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