



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-87,829-01

EX PARTE ANTONIO HALES, JR., Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. C-396-011117-1319929-A IN THE 396TH DISTRICT COURT
FROM TARRANT 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 attempted capital murder and sentenced to life imprisonment. The Second Court of Appeals affirmed his conviction. *Hales v. State*, No, 02-13-00603-CR (Tex. App. — Fort Worth, Nov. 6, 2014) (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 and failed to advise him of

his right to petition *pro se* for discretionary review.

Appellate counsel filed an affidavit with the trial court. Although appellate counsel describes his practice and routine of advising clients of the disposition of their appeals and of their right to pursue discretionary review with this Court, appellate counsel has been unable to locate records showing that he provided Applicant such notice in this case. Furthermore, the appellate docket in this case does not contain a letter from appellate counsel certifying compliance with Rule 48.4 of the Texas Rules of Appellate Procedure.

We find, therefore, that there is no evidence that appellate counsel timely notified Applicant that his conviction had been affirmed or advised him of his right to petition for discretionary review *pro se*. *Ex parte Wilson*, 956 S.W.2d 25 (Tex. Crim. App. 1997). Applicant is entitled to the opportunity to file an out-of-time petition for discretionary review of the judgment of the Second Court of Appeals in Cause No. 02-13-00603-CR that affirmed his conviction in Cause No. 1319929R from the 396th District Court of Tarrant 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: January 24, 2018
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