



# IN THE COURT OF CRIMINAL APPEALS OF TEXAS

**NO. WR-87,850-01**

**EX PARTE KRISTI COLLINS, Applicant**

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS  
CAUSE NO. 16-09-180-CRW-A IN THE 218TH DISTRICT COURT  
FROM WILSON 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 aggravated assault against a public servant and sentenced to seven years' and six months' imprisonment.

Applicant contends that she was denied her right to appeal through no fault of her own, because appellate counsel was not timely appointed and notice of appeal was not filed. Applicant was convicted on a plea of "not guilty" and sentenced on March 29, 2017. Her trial attorney has submitted an affidavit in which he states that because he does not handle appeals, he asked the trial

court what would be required in order to have appellate counsel appointed if his client wanted to appeal. Trial counsel states that he was instructed to file a motion for new trial and a motion to substitute counsel, which he did on the same date Applicant was sentenced. It appears from the documents in the habeas record that the trial court signed an order substituting counsel on June 30, 2017, more than ninety days after the date upon which Applicant's sentence was imposed.

We find that Applicant was deprived of the right to appeal due to a breakdown in the system, and is entitled to the opportunity to file an out-of-time appeal of the judgment of conviction in Cause No. 16-09-180-CRW-A from the 218th District Court of Wilson 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: January 24, 2018  
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