



## IN THE COURT OF CRIMINAL APPEALS OF TEXAS

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NO. WR-88,988-01

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**EX PARTE AMBER VALANTINA AKERS, Applicant**

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**ON APPLICATION FOR A WRIT OF HABEAS CORPUS  
CAUSE NO. 11-12331-A IN THE 252ND DISTRICT COURT  
FROM JEFFERSON COUNTY**

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*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 and sentenced to twenty years' imprisonment. The Fourteenth Court of Appeals affirmed her conviction. *Akers v. State*, No. 14-12-00422-CR (Tex. App. — Houston [14<sup>th</sup> Dist.] 2013) (not designated for publication).

Applicant contends, among other things, that she was denied her right to petition this Court for discretionary review. Applicant's appellate attorney filed a petition on her behalf, but that petition was struck by this Court because there were insufficient copies filed, in violation of Rule

9.3(b) of the Texas Rules of Appellate Procedure. This Court allowed 30 days to re-draw and re-file the petition, but no re-drawn petition was ever filed.

We remanded this application to the trial court for findings of fact and conclusions of law. Appellate counsel filed an affidavit with the trial court. Based on that affidavit, the trial court has entered findings of fact and conclusions of law finding that appellate counsel never received notice of this Court's order striking the petition. The trial court concludes that because of a breakdown in the system, Applicant was deprived of her right to petition this Court for discretionary review through no fault of her own. The trial court recommends that relief be granted. *See Ex parte Riley*, 193 S.W.3d 900 (Tex. Crim. App. 2006).

We find, therefore, that Applicant is entitled to the opportunity to file an out-of-time petition for discretionary review of the judgment of the Fourteenth Court of Appeals in Cause No. 14-12-00422-CR that affirmed her conviction in Cause No. 11-12331-A from the 252nd District Court of Jefferson County. Applicant shall file her petition for discretionary review with this Court within 30 days of the date on which this Court's mandate issues.

Applicant's remaining claims are dismissed. *See Ex parte Torres*, 943 S.W.2d 469 (Tex. Crim. App. 1997).

Delivered: December 19, 2018  
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