



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-89,233-01

EX PARTE VICTOR LARKIN HILL, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. C-396-W011401-1420018-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 possession of a controlled substance and sentenced to twenty-eight years' imprisonment. The Second Court of Appeals affirmed his conviction. *Hill v. State*, No. 02-16-00306-CR (Tex. App.—Fort Worth May 17, 2018) (not designated for publication).

Applicant contends that his appellate counsel rendered ineffective assistance because counsel failed to timely file a petition for discretionary review after he had agreed to file a petition on behalf of the Applicant.

Appellate counsel filed an affidavit with the trial court stating that he missed the deadline for timely filing a petition for discretionary review on behalf of the Applicant. Based on that affidavit, the trial court recommends that relief be granted. We agree.

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 Second Court of Appeals in Cause No. 02-16-00306-CR that affirmed his conviction in Cause No. 1420018D 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: December 12, 2018
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