



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-89,234-01

EX PARTE JOE ANGEL LOPEZ, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. C-4-W011402-1455366-A
IN CRIMINAL DISTRICT COURT FOUR 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 murder and sentenced to forty years' imprisonment. The Second Court of Appeals affirmed his conviction. *Lopez v. State*, No. 02-17-00233-CR (Tex. App.—Ft. Worth July 12, 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.

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 that appellate counsel failed to timely file a petition for discretionary review, thereby denying Applicant the right to file a petition for discretionary review. The trial court recommends that relief be granted. *Ex parte Wilson*, 956 S.W.2d 25 (Tex. Crim. App. 1997).

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. 02-17-00233-CR that affirmed his conviction in Cause No. 1455366D from Criminal District Court Four 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 19, 2018
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