



## IN THE COURT OF CRIMINAL APPEALS OF TEXAS

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NO. WR-84,549-04

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**EX PARTE ROSA SERRANO, Applicant**

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**ON APPLICATION FOR A WRIT OF HABEAS CORPUS  
CAUSE NO. 20170D00317 IN THE 243<sup>RD</sup> DISTRICT COURT  
FROM EL PASO 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 one count of medicaid fraud and one count of theft and sentenced to eleven years' imprisonment for each count. The Eighth Court of Appeals affirmed her convictions. *Serrano v. State*, No. 08-17-00190-CR (Tex. App.—El Paso April 30, 2019).

Applicant contends that her appellate counsel rendered ineffective assistance because counsel failed to timely notify Applicant that her convictions had been affirmed.

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 notify Applicant that her convictions had been affirmed. The trial court recommends that relief be granted. *Ex parte Wilson*, 956 S.W.2d 25 (Tex. Crim. App. 1997). This application is non-compliant because habeas counsel failed to file a certificate of compliance with the memorandum of law. However, because we believe that Applicant is entitled to an out-of-time petition for discretionary review, we will not dismiss the application as non-compliant. *Ex parte Golden*, 991 S.W.2d 859 (Tex. Crim. App. 1999).

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 Eighth Court of Appeals in Cause No. 08-17-00190-CR that affirmed her conviction in Cause No. 20170D00317 from the 243<sup>rd</sup> District Court of El Paso 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.

Delivered: November 27, 2019  
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