



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-84,725-02

EX PARTE ALLEN ODONALD NASH, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 14-12-13270 IN THE 9TH DISTRICT COURT
FROM MONTGOMERY 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 five counts of aggravated sexual assault of a child and sentenced to life imprisonment. The Seventh Court of Appeals affirmed his convictions. *Nash v. State*, Nos. 07-16-00246-CR, 07-16-00247-CR, 07-16-00248-CR, 07-16-00249-CR, & 07-16-00250-CR (Tex. App.—Amarillo Nov. 16, 2018, no pet.) (mem. op., not designated for publication).

Applicant contends that his appellate counsel rendered ineffective assistance because counsel failed to timely notify Applicant that his convictions had been affirmed and failed to advise him of

his right to file a *pro se* petition for discretionary review. The trial court filed an order designating issues and ordered appellate counsel to provide an affidavit in response to applicant's allegations.

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 his convictions had been affirmed and failed to advise him of his right to petition for discretionary review *pro se*. 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 judgments of the Seventh Court of Appeals in Cause Nos. 07-16-00246-CR, 07-16-00247-CR, 07-16-00248-CR, 07-16-00249-CR, and 07-16-00250-CR that affirmed his convictions in Cause No. 14-12-13270 from the 9th District Court of Montgomery 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 11, 2019

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