



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-88,917-01

EX PARTE GEORGE WASHINGTON SHARPER, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. WRIT10030 IN THE 196TH DISTRICT COURT
FROM HUNT 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 capital murder and sentenced to life imprisonment. The Sixth Court of Appeals affirmed his conviction. *Sharper v. State*, 485 S.W.3d 612 (Tex. App. — Texarkana 2016).

Applicant contends that his appellate counsel rendered ineffective assistance because counsel failed to timely notify Applicant that his conviction had been affirmed. Appellate counsel filed an affidavit in which she stated that she timely mailed a letter to Applicant notifying him of the court of appeals' decision and providing him with instructions on how to proceed *pro se* if he wanted to

file a petition for discretionary review. However, appellate counsel conceded that she did not send the letter via certified mail, and did not file a copy of the letter with the court of appeals, certifying compliance with Rule 48.4 of the Texas Rules of Appellate Procedure.

We remanded this application to the trial court for obtain copies of the mail logs from the prison unit(s) where Applicant was incarcerated during the applicable period for filing a petition for discretionary review. Copies of those mail logs have been submitted, and they show that Applicant did not receive any mail from appellate counsel during the applicable period.

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 Sixth Court of Appeals in Cause No. 06-15-00114-CR that affirmed his conviction in Cause No. 28240 from the 196th District Court of Hunt 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: January 30, 2019
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