



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-89,669-01

EX PARTE RAYMOND SMITH JR, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 2014-0261-A IN THE 159TH DISTRICT COURT
FROM ANGELINA 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 three counts of indecency with a child and sentenced to twenty years' imprisonment on each count. The Twelfth Court of Appeals affirmed his conviction. *Smith v. State*, No. 12-14-00266-CR (Tex. App.—Tyler June 30, 2016)(not designated for publication). The application is non-compliant because it was filed on an old habeas form. However, this Court will address the merits of the application because it appears that Applicant is entitled to relief. *Ex parte Golden*, 991 S.W.2d 859 (Tex. Crim. App. 1999).

Applicant contends that his appellate counsel rendered ineffective assistance because counsel failed to timely notify Applicant that his conviction had been affirmed and that he had a right to file a *pro se* 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 notify Applicant that his conviction had been affirmed. 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 Twelfth Court of Appeals in Cause No. 12-14-00266-CR that affirmed his conviction in Cause No. 2014-0261-A from the 159th District Court of Angelina 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: April 17, 2019
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