



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-89,830-01

EX PARTE SHERRIE HOFF, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 13-01-00945-CR (1) IN THE 359TH 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 driving while intoxicated and sentenced to 15 years in prison. The Ninth Court of Appeals affirmed her conviction. *Hoff v. State*, No. 09-15-00188-CR (Tex. App.—Beaumont Oct. 19, 2016).

Applicant, through habeas counsel, contends that her appellate counsel rendered ineffective assistance because appellate counsel failed to timely notify Applicant that her conviction had been affirmed and that Applicant had a right to file a *pro se* petition for discretionary review. Applicant requests an out-of-time 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 and recommends that relief be granted. The State is not opposed. The findings and recommendation are supported by the habeas record and applicable law. *See Ex parte Wilson*, 956 S.W.2d 25 (Tex. Crim. App. 1997).

Applicant is entitled to the opportunity to file an out-of-time petition for discretionary review of the judgment of the Ninth Court of Appeals in Cause No. 09-15-00188-CR that affirmed her conviction in Cause No. 13-01-00945-CR from the 359th District Court of Montgomery 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: October 30, 2019
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