



## IN THE COURT OF CRIMINAL APPEALS OF TEXAS

**NO. WR-90,148-01**

**EX PARTE KEVIN BRAY, Applicant**

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS  
CAUSE NO. 1395197-A IN THE 183<sup>RD</sup> DISTRICT COURT  
FROM HARRIS 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 murder and sentenced to forty years' imprisonment. The First Court of Appeals affirmed his conviction. *Bray v. State*, No. 01-15-00671-CR (Tex. App.—Houston [1<sup>st</sup> Dist] July 25, 2017).

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 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 secure Applicant's

right to file a petition for discretionary review. The trial court recommends that relief be granted.

*Ex parte Wilson*, 956 S.W.2d 25 (Tex. Crim. App. 1997).

We find that Applicant is entitled to the opportunity to file an out-of-time petition for discretionary review of the judgment of the First Court of Appeals in Cause No. 01-15-00671-CR that affirmed his conviction in Cause No. 1395197 from the 183<sup>rd</sup> District Court of Harris 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: August 21, 2019

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