



## IN THE COURT OF CRIMINAL APPEALS OF TEXAS

**NO. WR-90,264-01**

**EX PARTE ANDRE LATAUN SMITH, Applicant**

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS  
CAUSE NO. 73534-A IN THE 300TH DISTRICT COURT  
FROM BRAZORIA COUNTY**

*Per curiam.* YEARY, J., filed a dissenting opinion in which KELLER, P.J., and WALKER and SLAUGHTER, JJ., joined.

### 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 twenty-five years' imprisonment. He did not appeal his conviction.

In a single ground, Applicant contends that trial counsel failed to advise him that he could appeal the assessment of attorney's fees in his case. *See Mayer v. State*, 309 S.W.3d 552, 557 (Tex. Crim. App. 2010).

The trial court has recommended that we modify the judgment and delete the assessment of

attorney's fees. Relief is granted. The portion of the judgment assessing attorney's fees in cause number 73534 in the 300th District Court of Brazoria County is deleted.

Copies of this opinion shall be sent to the Texas Department of Criminal Justice—  
Correctional Institutions Division and Pardons and Paroles Division.

Delivered: October 2, 2019

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