



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-90,703-01

EX PARTE JOHN L. MCLAUGHLIN, JR., Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 60418-01-E-WR IN THE 108TH DISTRICT COURT
FROM POTTER COUNTY**

Per curiam.

OPINION

Applicant was convicted of aggravated robbery and sentenced to thirty years' imprisonment. The Seventh Court of Appeals affirmed his conviction. *McLaughlin v. State*, No. 07-15-00079-CR (Tex. App.—Amarillo Oct. 27, 2016) (not designated for publication). Applicant filed this application for a writ of habeas corpus in the county of conviction, and the district clerk forwarded it to this Court. *See* TEX. CODE CRIM. PROC. art. 11.07.

In a single ground, Applicant contends that appellate counsel failed to timely inform him that his conviction had been affirmed. We remanded this application for a response from appellate counsel and findings of fact and conclusions of law. On remand, appellate counsel was given the opportunity to respond, but judging from the record, he failed to respond. The trial court found,

among other things, that there is no evidence showing that Applicant was made aware of his right to file a *pro se* petition for discretionary review.

Based on the totality of the record, we believe that Applicant is entitled to an out-of-time petition for discretionary review. Relief is granted. *Ex parte Wilson*, 956 S.W.2d 25 (Tex. Crim. App. 1997); *Ex parte Crow*, 180 S.W.3d 135 (Tex. Crim. App. 2005). Applicant may file an out-of-time petition for discretionary review of the judgment of the Seventh Court of Appeals in cause number 07-15-00079-CR. Should Applicant decide to file a petition for discretionary review, he must file it with this Court within thirty days from the date of this Court's mandate.

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

Delivered: April 29, 2020
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