



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-90,752-01

EX PARTE JOHNNY EARL ALEXANDER, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. CR11-295A IN THE 235TH DISTRICT COURT
FROM COOKE COUNTY**

Per curiam.

OPINION

Applicant was convicted of injury to a child causing serious bodily injury and sentenced to life imprisonment. The Eighth Court of Appeals affirmed his conviction. *Alexander v. State*, No. 08-14-00113-CR (Tex. App.—El Paso, August 17, 2016). 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.

Applicant contends that appellate counsel was ineffective because counsel failed to notify him when his direct appeal was affirmed and did not timely inform him of his right to file a pro se petition for discretionary review. Based on the record, the trial court has determined that Applicant, through no fault of his own, was denied timely notice of the Court of Appeals' affirmance and of the right to

file a pro se petition for discretionary review.

Relief is granted. *Smith v. Robbins*, 528 U.S. 259 (2000); *Ex parte Miller*, 330 S.W.3d 610 (Tex. Crim. App. 2009). Applicant may file an out-of-time PDR of the judgment of the Eighth Court of Appeals in case number 08-14-00113-CR that affirmed his conviction in cause number CR11-00295 from the 235th District Court of Cooke 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: December 9, 2020

Do not publish