IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-90,818-01

EX PARTE DAVID PAUL NAVARRO, Applicant

ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 20140D03126-409-1 IN THE 409TH DISTRICT COURT
FROM EL PASO COUNTY

Per curiam.

O P I N I O N

Applicant was convicted of one count of aggravated assault, one count of assault of a family member, and one count of burglary of a motor vehicle and sentenced to thirty years for the aggravated assault count and twenty years for the assault and burglary counts, all running concurrently. He 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 he was denied his right to an appeal because notice of appeal was not timely filed. Based on the record, the trial court has found that Applicant requested an appeal, but that appellate counsel was not appointed until after the deadline for filing notice of appeal had passed. The trial court finds that Applicant was without counsel during the period for filing notice of appeal.

Relief is granted. *Ex parte Riley, 193 S.W.3d 900 (Tex. Crim. App. 2006)* . Applicant may file an out-of-time appeal of his conviction in cause number 20140D03126 from the 409th District Court of El Paso County. Within ten days from the date of this Court's mandate, the trial court shall determine whether Applicant is indigent. If Applicant is indigent and wants to be represented by counsel, the trial court shall appoint counsel to represent him on direct appeal. All deadlines shall be calculated as if Applicant was sentenced on the date of this Court's mandate. Should Applicant decide to appeal, he must file a written notice of appeal in the trial 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: October 7, 2020
Do not publish