



# IN THE COURT OF CRIMINAL APPEALS OF TEXAS

**NO. WR-91,675-01**

**EX PARTE TERRANCE HENRY, Applicant**

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS  
CAUSE NO. W09-59736-W(A) IN THE 363RD DISTRICT COURT  
FROM DALLAS COUNTY**

*Per curiam.*

## OPINION

Applicant was convicted of capital murder and sentenced to life imprisonment without parole. The Fifth Court of Appeals affirmed the conviction but reversed and remanded the judgment as to punishment. *Henry v. State*, No. 05-11-00676-CR (Tex. App.—Dallas Aug. 24, 2012, no pet.). In the second punishment proceeding, the trial court sentenced Applicant to life. The appellate court affirmed the judgment. *Henry v. State*, No. 05-14-00197-CR (Tex. App.—Dallas July 10, 2015, pet. ref'd). 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 failed to timely inform Applicant that his conviction had been affirmed in 2012 and advise him of his right to file a *pro se* petition for discretionary review

from his first appeal. Based on the record, the trial court has determined that appellate counsel's performance was deficient and that Applicant would have timely filed a petition for discretionary review from his first appeal, but for counsel's deficient performance.

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 2012 judgment of the Fifth Court of Appeals in cause number 05-11-00676-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: September 15, 2021

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