



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-92,390-01

EX PARTE ERIC BENJAMIN TRAYLOR, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. DC-F201700359-A IN THE 413TH DISTRICT COURT
FROM JOHNSON COUNTY**

Per curiam.

OPINION

Applicant was convicted of capital murder of a person under ten years of age and sentenced to life without parole. The Thirteenth Court of Appeals affirmed his conviction. *Traylor v. State*, No. 13-18-00338-CR (Tex. App.—Corpus Christi-Edinburg, Apr. 9, 2020). 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 and advise him of his right to file a *pro se* petition for discretionary review. The record does not contain an affidavit from appellate counsel, who apparently relocated to Colorado. The attorney who bought appellate counsel's practice filed an affidavit stating that, as a courtesy, she

informed Applicant that he had 90 days to appeal the judgment to a higher court.

Based on that faulty advice, and appellate counsel's apparent failure to timely inform Applicant of his right to file a *pro se* petition for discretionary review, we grant relief. *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 Court of Appeals in cause number. Should Applicant decide to file a petition for discretionary review, 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: June 9, 2021
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