



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-93,445-01

EX PARTE MICHAEL TAPIA, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 2015-74-C1A IN THE 19TH DISTRICT COURT
FROM MCLENNAN COUNTY**

Per curiam.

OPINION

Applicant pleaded guilty to aggravated assault against a public servant (Count I) and evading arrest or detention (Count II). He was sentenced to fifteen years' imprisonment on Count I and ten years' imprisonment on Count II, to run concurrently. The Tenth Court of Appeals dismissed Applicant's *pro se* appeal because it was untimely. *Tapia v. State*, No. 10-17-0089-CR (Tex. App.—Waco, Mar. 22, 2017) (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.

Applicant contends, among other things, that he was denied his right to an appeal because counsel failed to timely file a notice of appeal. Based on the record, the trial court has found that counsel failed to timely file a notice of appeal.

Relief is granted. *Ex parte Axel*, 757 S.W.2d 369 (Tex. Crim. App. 1988); *Jones v. State*, 98 S.W.3d 700 (Tex. Crim. App. 2003). Applicant's remaining claims are dismissed. *See Ex parte Torres*, 943 S.W.2d 469 (Tex. Crim. App. 1997).

Applicant may file an out-of-time appeal of his convictions in cause number 2015-74-C1 from the 19th District Court of McLennan 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. 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: June 29, 2022
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