



## IN THE COURT OF CRIMINAL APPEALS OF TEXAS

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NO. WR-93,543-01

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EX PARTE ANDREW ANDERSON, Applicant

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ON APPLICATION FOR A WRIT OF HABEAS CORPUS  
CAUSE NO. W19-52721-R(A) IN THE 265TH JUDICIAL  
DISTRICT COURT FROM DALLAS COUNTY

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*Per curiam.* SLAUGHTER, J. dissents.

### OPINION

Applicant was convicted of aggravated assault with a deadly weapon and sentenced to five years' imprisonment. 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 counsel failed to timely file a notice of appeal. Based on the record, the trial court has found that counsel was not informed of Applicant's desire to file an appeal and was not, therefore, ineffective for failing to file notice. But the trial court recommends that Applicant be granted an out-of-time appeal in the interest of justice based on his timely attempt to file a *pro se* notice of appeal.

We agree. Relief is granted. *Ex parte Riley*, 193 S.W.3d 900 (Tex. Crim. App. 2003).

Applicant may file an out-of-time appeal of his conviction in cause number F19-52721-R from the 265th District Court of Dallas 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: JULY 27, 2022  
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