



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-94,570-01

EX PARTE FRANCISCO VALLES, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 20150D02069-409-1 IN THE 409TH DISTRICT COURT
FROM EL PASO COUNTY**

Per curiam. SLAUGHTER, J. filed a concurring opinion. YEARY, J. dissented.

OPINION

Applicant was convicted of aggravated robbery and sentenced to forty years' imprisonment. The Eighth Court of Appeals affirmed his conviction. *Valles v. State*, No. 08-18-00061-CR (Tex. App. — El Paso, Jan. 17, 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 trial court has determined that appellate counsel's performance was not deficient and that Applicant was timely notified of his right to file a *pro se* petition for discretionary review.

We disagree. Based on the record, appellate counsel failed to follow the Texas Rules of Appellate Procedure Rule 48.4 and did not directly advise Applicant of his right to file a *pro se* petition for discretionary review or the applicable deadline. 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 judgment of the Eighth Court of Appeals in cause number 08-18-00061-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: May 03, 2023
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