



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-94,650-01

EX PARTE EDIBERTO ANTONIO DELEON, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 83201-CR-A IN THE 149TH DISTRICT COURT
FROM BRAZORIA COUNTY**

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

OPINION

Applicant was convicted of murder and sentenced to seventy years' imprisonment. The First Court of Appeals affirmed his conviction. *DeLeon v. State*, No. 01-19-00695-CR (Tex. App.—Houston [1st Dist.] Aug. 24, 2021) (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 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. 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 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 judgment of the First Court of Appeals in cause number 01-19-00695-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: April 26, 2023
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