



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. AP-76,696

EX PARTE RUSSELL J. ALLIGOOD, Applicant

ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 59544 IN THE 264TH DISTRICT COURT
FROM BELL COUNTY

Per curiam.

OPINION

Pursuant to the provisions of Article 11.07 of the Texas Code of Criminal Procedure, the clerk of the trial court transmitted to this Court this application for writ of habeas corpus. *Ex parte Young*, 418 S.W.2d 824, 826 (Tex. Crim. App. 1967). Applicant was convicted of capital murder and sentenced to life imprisonment. The Third Court of Appeals affirmed his conviction. *Alligood v. Texas*, No. 03-06-516-CR (Tex. App.—Austin, July 12, 2007).

Applicant contends that his appellate counsel rendered ineffective assistance because counsel failed to timely notify Applicant that his conviction had been affirmed.

Appellate counsel filed an affidavit with the trial court. Based on that affidavit, the trial court

has entered findings of fact and conclusions of law that recommends that relief be granted. *Ex parte Wilson*, 956 S.W.2d 25 (Tex. Crim. App. 1997). We find, therefore, that Applicant is entitled to the opportunity to file an out-of-time petition for discretionary review of the judgment of the Third Court of Appeals in Cause No. 03-06-516-CR that affirmed his conviction in Case No. 59544 from the 264th Judicial District Court of Bell County. Applicant shall file his petition for discretionary review with this Court within 30 days of the date on which this Court's mandate issues.

Delivered: November 23, 2011

Do not publish