



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. AP-76,839

EX PARTE REYNALDO ROBERTO ESPARZA, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 2005-CRN-166D-3 IN THE 341ST DISTRICT COURT
FROM WEBB COUNTY**

Per curiam.

O P I N I O N

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 a writ of habeas corpus. *Ex parte Young*, 418 S.W.2d 824, 826 (Tex. Crim. App. 1967). Applicant was convicted of two counts of murder, two counts of aggravated kidnapping, and two counts of engaging in organized criminal activity. He was sentenced to ninety-nine years' imprisonment on each count. The Fourth Court of Appeals affirmed his conviction. *Esparza v. State*, No. 04-08-00039-CR (Tex. App.—San Antonio, January 14, 2009).

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, we find that Applicant is entitled to relief. *Ex parte Wilson*, 956 S.W.2d 25 (Tex. Crim. App. 1997).

Applicant is entitled to the opportunity to file an out-of-time petition for discretionary review of the judgment of the Fourth Court of Appeals in Cause No. 04-08-00039-CR that affirmed his conviction in Cause No. 2005-CRN-166-D3 from the 341st District Court of Webb 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: September 12, 2012
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