



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. AP-76,930

EX PARTE ANDRES GOMEZ LONGORIA, Applicant

ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 06-8-22,681-D IN THE 377TH DISTRICT COURT
FROM VICTORIA 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 a writ of habeas corpus. *Ex parte Young*, 418 S.W.2d 824, 826 (Tex.Crim.App. 1967). Applicant was convicted of murder and was sentenced to ninety-nine years' imprisonment. The Thirteenth Court of Appeals affirmed his conviction. *Longoria v. State*, 13-07-00436-CR (Tex.App.—Corpus Christi del. Dec. 18, 2008).

Applicant raises several claims of ineffective assistance of trial counsel, and he also contends he was denied his right to pursue a petition for discretionary review. This Court remanded the application to the trial court for findings. Appellate counsel, who was also trial counsel, filed an affidavit with the trial court responding to the claims. Based on counsel's affidavit, the trial court

has entered findings of fact and conclusions of law indicating that Applicant was not timely advised of his right to file a *pro se* petition for discretionary review. *See Ex parte Wilson*, 956 S.W.2d 25 (Tex.Crim. App. 1997).

We hold, therefore, that Applicant is entitled to the opportunity to file an out-of-time petition for discretionary review of the judgment of the Thirteenth Court of Appeals in Cause No. 13-07-00436-CR that affirmed his conviction in Cause No. 06-8-22,681-D from the 377th District Court of Victoria 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. Applicant's remaining claims are dismissed without prejudice.

Delivered: December 12, 2012
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