



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. AP-76,989

EX PARTE MARIO ALBERT VALADEZ, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. CR2010-417 IN THE 207TH DISTRICT COURT
FROM COMAL 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 burglary of a habitation and sentenced to imprisonment for life. The Third Court of Appeals affirmed his conviction. *Valadez v. State*, No. 03-11-00224-CR (Tex. App.—Austin 2011, pet. dismissed).

Applicant contends that he was denied his right to file a *pro se* petition for discretionary review (PDR). We remanded this application to the trial court for findings of fact and conclusions of law. On remand, the trial court made findings and conclusions and recommended that we grant Applicant an out-of-time PDR. We agree. There was a breakdown in the system. *See Ex parte*

Riley, 193 S.W.3d 900, 902 (Tex. Crim. App. 2006). We find, therefore, that Applicant is entitled to the opportunity to file an out-of-time PDR of the judgment of the Third Court of Appeals in case number 03-11-00224-CR that affirmed his conviction in cause number CR2010-417 from the 207th District Court of Comal 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: March 20, 2013
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