



# IN THE COURT OF CRIMINAL APPEALS OF TEXAS

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NO. AP-76,993

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**EX PARTE JAMAAL LAROME GREEN, Applicant**

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**ON APPLICATION FOR A WRIT OF HABEAS CORPUS  
CAUSE NO. FR 64040-A IN THE 426TH DISTRICT COURT  
FROM BELL COUNTY**

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*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 aggravated sexual assault and sentenced to sixty years' imprisonment. The Third Court of Appeals affirmed his conviction. *Green v. State*, No. 03-09-00718-CR (Tex. App. – Austin, October 8, 2010).

Applicant contends that his appellate counsel rendered ineffective assistance because counsel failed to timely notify Applicant that his conviction had been affirmed, and of his right to file a *pro se* PDR. Appellate counsel filed an affidavit with the trial court, in which counsel stated that he did timely notify Applicant by letter of the Court of Appeals's decision, and of his right to file a *pro se*

PDR. We remanded this application to the trial court to obtain copies of the prison unit mail logs for the applicable period of time to determine whether or not Applicant received the letters from appellate counsel.

Based on appellate counsel's affidavit, and on the affidavit submitted by the Program Supervisor of the Mail System Coordinators Panel of TDCJ on remand, the trial court has entered supplemental findings of fact and conclusions of law. The trial court finds that although appellate counsel asserts that he timely notified Applicant that his conviction had been affirmed, there is no evidence that Applicant received any correspondence from appellate counsel during the applicable period of time for filing a PDR. The trial court recommends that relief be granted. *See, Ex parte Riley*, 193 S.W.3d 900 (Tex. Crim. App. 2006).

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. 03-09-00718-CR that affirmed his conviction in Cause No. 64,040 from the 426th 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: March 20, 2013  
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