



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-77,445-02

EX PARTE DAMACIA D. BUSBY, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 978120-A IN THE 185TH DISTRICT COURT
FROM HARRIS 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 injury to a child and sentenced to thirty years' imprisonment. The First Court of Appeals affirmed his conviction. *Busby v. State*, No. 01-04-01210-CR (Tex. App.—Houston [1st Dist.] Mar. 13, 2008).

Applicant contends that he was denied his right, through no fault of his own, to pursue a *pro se* petition for discretionary review in this Court after his conviction was affirmed by the First Court of Appeals. After an independent review of the writ record, this Court holds that Applicant is entitled to the opportunity to file an out-of-time petition for discretionary review of the judgment of the First

Court of Appeals in Cause No. 01-04-01210-CR that affirmed his conviction in Cause No. 978120 from the 185th District Court of Harris County. *See Ex parte Riley*, 193 S.W.3d 900 (Tex. Crim. App. 2006); *Ex parte Crow*, 180 S.W.3d 135, 138-39 (Tex. Crim. App. 2005).

Applicant shall file his petition for discretionary review with this Court within 30 days of the date on which this Court's mandate issues. Copies of this opinion shall be sent to the Texas Department of Criminal Justice-Correctional Institutions Division and Pardons and Paroles Division.

Delivered: January 15, 2014
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