



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NOS. WR-79,487-01 AND WR-79,487-02

EX PARTE ERMINIO ARROYOS, JR., Applicant

ON APPLICATIONS FOR WRITS OF HABEAS CORPUS
CAUSE NOS. W11627-1 AND W11713-1 IN THE 355TH DISTRICT COURT
FROM HOOD 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 possession of a firearm by a felon and possession of a controlled substance, and sentenced to ninety-nine years' imprisonment. The Second Court of Appeals affirmed his convictions. *Arroyos v. State*, Nos. 02-1100135-CR and 02-11-00136-CR (Tex. App. – Fort Worth, May 3, 2012).

Applicant contends that his appellate counsel rendered ineffective assistance because counsel failed to timely notify Applicant that his conviction had been affirmed. We remanded this application to the trial court for findings of fact and conclusions of law.

Appellate counsel filed an affidavit with the trial court. In addition, the trial court obtained an affidavit from the custodian of records of the prison mail room on the unit where Applicant was imprisoned during the applicable time period. Based on those affidavits, the trial court has entered findings of fact and conclusions of law recommending that relief be granted. *Ex parte Wilson*, 956 S.W.2d 25 (Tex. Crim. App. 1997).

We find, therefore, that Applicant is entitled to the opportunity to file an out-of-time petition for discretionary review of the judgments of the Second Court of Appeals in Cause Nos. 02-11-00135-CR and 02-11-00136-CR that affirmed his convictions in Cause Nos. W11627-1 and W11713-1 from the 355th District Court of Hood 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 11, 2013
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