



## IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-79,647-01

**EX PARTE JIM BRITE, Applicant**

ON APPLICATION FOR A WRIT OF HABEAS CORPUS  
CAUSE NO. 2006CR5362-W1 IN THE 186TH DISTRICT COURT  
FROM BEXAR 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 three counts of indecency with a child, one count of aggravated sexual assault, and one count of sexual assault. He was sentenced to imprisonment for four terms of twenty years and one term of life. The Fourth Court of Appeals affirmed his convictions. *Brite v. State*, No. 04-07-00820-CR (Tex. App.—San Antonio 2009, no pet.).

Applicant contends that he was denied the opportunity to file a *pro se* petition for discretionary review (PDR). We remanded this application to the trial court for further findings of

fact and conclusions of law.

Jennifer Smith at the Mail System Coordinators Panel at the Texas Department of Criminal Justice filed a sworn affidavit and stated that the mails logs from June 11 to August 11, 2009 revealed that Applicant received no legal mail. Based on that affidavit, the trial court has entered findings of fact and conclusions of law that appellate counsel's conduct was deficient. The trial court recommends 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 PDR of the judgment of the Fourth Court of Appeals in case number 04-07-00820-CR that affirmed his convictions in cause number 2006CR5362 from the 186th District Court of Bexar County. Applicant shall file his PDR with this Court within 30 days of the date on which this Court's mandate issues.

Delivered: November 20, 2013  
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