



## IN THE COURT OF CRIMINAL APPEALS OF TEXAS

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NO. WR-79,891-01

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**EX PARTE THOMAS DALE FRACARO, Applicant**

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**ON APPLICATION FOR A WRIT OF HABEAS CORPUS  
CAUSE NO. F-98-0490-B IN THE 158<sup>TH</sup> DISTRICT COURT  
FROM DENTON COUNTY**

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*Per curiam.* KELLER, P.J., concurred.

### 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 driving while intoxicated and sentenced to ten years' imprisonment. The Second Court of Appeals affirmed his conviction. *Fracaro v. State*, No. 02-99-109-CR (Tex. App.—Fort Worth Jul. 27, 2000) (unpublished).

Applicant contends that he is entitled to time credit for time he spent out of custody, on appeal bond. He contends that this sentence should have discharged, but he was never notified of the appellate decision, and was never served with the alias capias that followed mandate.

The State and trial court agree that Applicant was erroneously allowed to stay out on appeal bond through no fault of his own and that he is entitled to time credit from the time mandate issued. The trial court determined that Applicant is entitled to relief. *Ex parte Thiles*, 333 S.W.3d 148 (Tex. Crim. App. 2011).

Relief is granted. Applicant is to receive time credit in this cause from the time the mandate issued in his appeal to the present. With the granting of this time credit, he has served this sentence in full and shall be immediately discharged from custody.

Copies of this opinion shall be sent to the Texas Department of Criminal Justice—Correctional Institutions Division and Pardons and Paroles Division.

Delivered: October 23, 2013  
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