



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-80,356-01

EX PARTE MICHAEL SHANE SANDERS, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 68776-A IN THE 149TH DISTRICT COURT
FROM BRAZORIA COUNTY**

Per curiam.

ORDER

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 controlled substance and sentenced to fourteen years' imprisonment. He timely filed notice of appeal.

Applicant contends that after he filed timely notice of appeal, he dismissed his appeal because the District Clerk failed to send it to a court of appeals and because appellate counsel was not appointed. He wants his appeal to be reinstated, appellate counsel from his companion cases to be appointed, and his cases to be consolidated on appeal.

The trial court made findings of fact and conclusions of law and recommended that we grant the relief Applicant requested. We decline to do so. According to the record, Applicant filed timely notice of his appeal in this case. For purposes of Article 11.07 of the Code of Criminal Procedure, his conviction is not final, and we do not have jurisdiction. TEX. CODE CRIM. PROC. art. 11.07, § 3(a). The District Clerk has a ministerial duty to send Applicant's notice of appeal to a court of appeals. *Ex parte Garcia*, 988 S.W.2d 240, 241 (Tex. Crim. App. 1999). Should the District Clerk violate this duty, Applicant has a remedy in mandamus. This application is dismissed.

Filed: October 30, 2013
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