



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-80,477-01

EX PARTE BERNIE RAY LUCAS, Applicant

ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 16984 IN THE 2nd DISTRICT COURT
FROM CHEROKEE 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 murder and sentenced to fifty years' imprisonment. The Applicant's appeal was dismissed for want of jurisdiction. *Lucas v. State*, No. 12-09-00346-CR (Tex. App.—Tyler, delivered November 12, 2009, no pet.).

Applicant contends that his counsel rendered ineffective assistance because he failed to timely file a notice of appeal.

The record before us reflects that Applicant was deprived of his right to appeal his conviction

in this case. Therefore, we find that Applicant is entitled to the opportunity to file an out-of-time appeal of the judgment of conviction in Cause No. 16984 from the 2nd District Court of Cherokee County. Applicant is ordered returned to that time at which he may give a written notice of appeal so that he may then, with the aid of counsel, obtain a meaningful appeal. Within ten days of the issuance of this opinion, the trial court shall determine whether Applicant is indigent. If Applicant is indigent and wishes to be represented by counsel, the trial court shall immediately appoint an attorney to represent Applicant on direct appeal. All time limits shall be calculated as if the sentence had been imposed on the date on which the mandate of this Court issues. We hold that, should Applicant desire to prosecute an appeal, he must take affirmative steps to file a written notice of appeal in the trial court within 30 days after the mandate of this Court issues.

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

Delivered: November 27, 2013
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