



# IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-80,602-01

**EX PARTE MARCUS ANTHONY SHUFF, Applicant**

ON APPLICATION FOR A WRIT OF HABEAS CORPUS  
CAUSE NO. 10CR0506-83-1  
IN THE 405<sup>TH</sup> DISTRICT COURT FROM GALVESTON 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 life imprisonment. The First Court of Appeals affirmed his conviction. *Shuff v. State*, No. 01-12-00034-CR (Tex. App.–Houston [1<sup>st</sup>] May 2, 2013).

Applicant contends that he was denied his right to file a *pro se* petition for discretionary review because his counsel was not timely notified of the appellate court's decision and therefore did not timely notify Applicant of the appellate court's decision.

Appellate counsel filed an affidavit with the trial court. Based on that affidavit, the trial court

has entered findings of fact and conclusions of law that Applicant was denied his right to file a *pro se* petition for discretionary review. The State and the trial court recommend that relief be granted. *Ex parte Riley*, 193 S.W.3d 900 (Tex. Crim. App. 2003).

We find, therefore, that Applicant is entitled to the opportunity to file an out-of-time petition for discretionary review of the judgment of the First Court of Appeals in Cause No. 01-12-00034-CR that affirmed his conviction in Cause No. 10CR0506-83-1 from the 405<sup>th</sup> District Court of Galveston 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: December 18, 2013  
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