IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NOS. AP-76,070 & AP-76,071

EX PARTE DANIEL EDWARD MURRAY, Applicant

ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NOS. W366-80173-06(HC) & W366–80248-05(HC)
IN THE 366TH DISTRICT COURT FROM COLLIN COUNTY

***Per curiam*.**

O P I N I O N

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 aggravated sexual assault, indecency with a child, and possession of child pornography. Punishment was assessed at thirty years, twenty years, and ten years' imprisonment, respectively. Appeals were dismissed because notice was untimely. *Murray v. State*, Nos. 05-08-172-CR and 05-08-298-CR (Tex. App. - Dallas, delivered March 19, 2008, no pet.).

Applicant contends that his counsel rendered ineffective assistance because he failed to file

timely notices of appeal. The trial court has determined that appellate counsel failed to file notices of appeal when miscalculated the date such notice was due, and recommends that relief be granted. We find, therefore, that Applicant is entitled to the opportunity to file out-of-time appeals of the judgments of conviction in Cause Nos. 366-80173-06 and 366-80248-05 in the 366th District Court of Collin 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. 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.

Applicant's remaining claims are dismissed. See *Ex parte Torres*, 943 S.W.2d 469 (Tex. Crim. App. 1997).

Delivered: January 14, 2009
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