IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. AP-76,085

EX PARTE ROBERT RANDALL SALINAS, Applicant

ON APPLICATION FOR A WRIT OF HABEAS CORPUS CAUSE NO. 06-CR-0428-A IN THE 28th DISTRICT COURT FROM NUECES 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 writ of habeas corpus. *Ex parte Young*, 418 S.W.2d 824, 826 (Tex. Crim. App. 1967). Applicant was convicted of one count of aggravated sexual assault of a child and one count of indecency with a child and sentenced to fifty and twenty years' imprisonment, to run concurrently. The Thirteenth Court of Appeals affirmed his conviction. *Salinas v. State*, No. 13-06-501-CR, 2007 Tex. App. LEXIS 6753 (Tex. App.–Corpus Christi, Aug. 23, 2007) (not designated for publication).

Applicant contends that his appellate counsel rendered ineffective assistance because counsel

failed to timely notify Applicant that his conviction had been affirmed and failed to advise him of his right to petition for discretionary review *pro se.*

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 appellate counsel failed to timely notify Applicant that his conviction had been affirmed and failed to advise him of his right to petition for discretionary appeal *pro se.* The trial court recommends that relief be granted. *Ex parte Wilson*, 956 S.W.2d 25 (Tex. Crim. App. 1997). 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 Thirteenth Court of Appeals affirming his conviction in Cause No. 06-CR-0428-A from the 28th Judicial District Court of Nueces County. Applicant shall file his petition for discretionary review with the Thirteenth Court of Appeals within 30 days of the date on which this Court's mandate issues.

Delivered: January 28, 2009
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