IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. AP-76,131

EX PARTE ANDREW C. YOUNG, Applicant

ON APPLICATION FOR A WRIT OF HABEAS CORPUS CAUSE NO. 06-04-03206-CR IN THE 221ST DISTRICT COURT FROM MONTGOMERY 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 robbery and sentenced to twenty-five years' imprisonment. The Ninth Court of Appeals affirmed his conviction. *Young v. State*, No. 09-06-00429-CR (Tex. App.–Beaumont, July 25, 2007, no pet.).

Applicant contends, among other things, that his appellate counsel rendered ineffective assistance because counsel failed to advise him of his right to file a 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 advise Applicant of his right to petition for discretionary review *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 Ninth Court of Appeals in Cause No. 09-06-00429-CR that affirmed his conviction in Case No. 06-04-03206-CR from the 221st Judicial District Court of Montgomery County. Applicant shall file his petition for discretionary review with the Ninth Court of Appeals within 30 days of the date on which this Court's mandate issues.

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

Delivered: April 8, 2009
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