IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. AP-76,192

EX PARTE WALTER ANTHONY GRAYSON, Applicant

ON APPLICATION FOR A WRIT OF HABEAS CORPUS CAUSE NO. 1005001 IN THE 262ND DISTRICT COURT FROM HARRIS 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 murder and sentenced to 75 years' imprisonment. The First Court of Appeals affirmed his conviction. *Grayson v. State*, No. 01-07-00508-CR, (Tex. App.— Houston, [1st Dist.], 2008, no pet.) (not designated for publication).

Applicant contends that his due process rights were violated because he was denied his right to petition for discretionary review, *pro se*.

The trial court has entered findings of fact and conclusions of law recommending that relief be granted. We agree. The record shows that Applicant was deprived of his right to file a petition for discretionary review, *pro se.* *Ex parte Riley*, 193 S.W.3d 900 (Tex. Crim. App. 2006). 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. 01-07-00508-CR that affirmed his conviction in Case No. 1005001 from the 262nd Judicial District Court of Harris County. Applicant shall file his petition for discretionary review with the First Court of Appeals within 30 days of the date on which this Court's mandate issues.

Delivered: August 19, 2009
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