IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. AP-76,193

EX PARTE ROWDY LEE YATES, Applicant

ON APPLICATION FOR A WRIT OF HABEAS CORPUS CAUSE NO. F02-15107-PV IN THE 292ND DISTRICT COURT FROM DALLAS 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 injury to a child and sentenced to eighteen years' imprisonment.

Applicant contends that counsel rendered ineffective assistance because he failed to advise Applicant of his right to appeal and to file timely notice of appeal. The trial court has determined that Applicant was denied his right to appeal. We find, therefore, that Applicant is entitled to the opportunity to file an out-of-time appeal of the judgment of conviction in Cause No. F02-15107-PV

from the 292nd Judicial District Court of Dallas 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.

Delivered: August 19, 2009
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