IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. AP-76,220

EX PARTE MONTRELL HIGH, Applicant

ON APPLICATION FOR A WRIT OF HABEAS CORPUS CAUSE NO. 007-2020-07 IN THE 7TH DISTRICT COURT FROM SMITH 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 engaging in organized criminal activity and sentenced to twenty-five years' imprisonment.

Applicant contends that his counsel rendered ineffective assistance because he failed to timely file a notice of appeal.

Counsel has suffered a stroke after Applicant's sentencing. Applicant alleges that he informed counsel of his wish to appeal. There is nothing in the record to dispute that allegation.

Applicant was entitled to appeal his sentencing, but was not able to do so. We find, therefore, that Applicant is entitled to the opportunity to file an out-of-time appeal of the sentencing on the conviction in Cause No. 007-2020-07 from the 7th Judicial District Court of Smith 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: September 16, 2009
Do Not Publish