IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. AP-76,248

EX PARTE MICHAEL ANSHUN WALKER, Applicant

ON APPLICATION FOR A WRIT OF HABEAS CORPUS CAUSE NO. 30,597-CR IN THE 13TH DISTRICT COURT FROM NAVARRO 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 possession with intent to deliver a controlled substance and sentenced to sixty-five years' imprisonment.

Applicant contends that his counsel failed to timely file a notice of appeal. We remanded this application to the trial court to allow counsel an opportunity to respond to this claim.

Counsel has filed an affidavit in response to the claim, and the trial court has determined that a timely notice of appeal was not filed thorough no fault of Applicant. 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. 30,597-CR from the 13th Judicial District Court of Navarro 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: October 28, 2009
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