IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. AP-76,430

EX PARTE CARROLL DWAYNE YOUNG, Applicant

ON APPLICATION FOR A WRIT OF HABEAS CORPUS CAUSE NO. 802485 IN THE 230TH JUDICIAL 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 aggravated sexual assault of a child and sentenced to seventy-five years' imprisonment. The First District Court of Appeals reversed his conviction on appeal. *Young v. State*, 73 S.W.3d 482 (Tex. App. – Houston [1st Dist.] March 19, 2002, pet. granted). The State petitioned this Court for discretionary review, which this Court granted, reversing and remanding to the First District Court of Appeals. *Young v. State*, 137 S.W.3d 65 (Tex. Crim. App. 2004). On remand, the First District Court of Appeals

affirmed Applicant's conviction. *Young v. State*, 177 S.W.3d 136 (Tex. App. – Houston [1st Dist.] January 27, 2005, pet. dism'd).

Applicant contends that he was denied the opportunity to petition this Court for discretionary review. Based on the record, the trial court has entered findings of fact and conclusions of law indicating that Applicant was deprived of his opportunity to have this Court consider the merits of his petition for discretionary review, through no fault of his own.

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. 01-99-01147-CR that affirmed his conviction in Cause No. 802485 from the 230th 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: October 6, 2010
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