IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-79,565-01

EX PARTE WILLIAM JOHN BEICHNER, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 1280606 IN THE 338TH 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 a 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 thirty-five years' imprisonment. The Fourteenth Court of Appeals affirmed his conviction. *Beichner v. State*, 14-11-00958-CR (Tex. App.—Houston [14th Dist.] 2012, no pet.).

Applicant contends that he was denied the opportunity to file a petition for discretionary review (PDR). Appellate counsel filed an affidavit with the trial court. The trial court found his affidavit credible and determined that Applicant did not have the opportunity to file a PDR. The trial court made no recommendation. We conclude that there was a breakdown in the system. *Ex parte*

Riley, 193 S.W.3d 900, 902 (Tex. Crim. App. 2006). We find, therefore, that Applicant is entitled to the opportunity to file an out-of-time PDR of the judgment of the Fourteenth Court of Appeals in case number 14-11-00958-CR that affirmed his conviction in cause number1280606 from the 338th District Court of Harris County. Applicant shall file his petition for discretionary review with this Court within 30 days of the date on which this Court's mandate issues.

Delivered: June 12, 2013
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