IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-79,873-01

EX PARTE WILLIE CONTRERAS, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 2011-1337-C1A IN THE 19TH DISTRICT COURT
FROM MCLENNAN 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 life imprisonment. The Tenth Court of Appeals affirmed his conviction. *Contreras v. State*, No. 10-11-00383-CR (Tex. App. - Waco, October 25, 2012).

Applicant's appellate counsel filed this application on Applicant's behalf. In it, he contends that as a result of a calendaring error, he filed a petition for discretionary review and a motion for extension of time for filing the petition on Applicant's behalf after the filing deadlines. Applicant's petition for discretionary review was dismissed as untimely.

Based on an affidavit filed in support of the habeas application by appellate counsel, the trial court has entered findings of fact and conclusions, finding that appellate counsel's error denied Applicant the opportunity to petition this Court for discretionary review, and recommending that relief be granted. 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 Tenth Court of Appeals in Cause No. 10-11-00383-CR that affirmed his conviction in Cause No. 2011-1337-C1 from the 19th District Court of McLennan 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: July 24, 2013
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