IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-88,753-01

EX PARTE DONALD M. ROACH, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 1625359A IN THE 8TH DISTRICT COURT
FROM HOPKINS 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 continuous sexual abuse of a young child and sentenced to twenty-five years' imprisonment. The Sixth Court of Appeals affirmed his conviction. *Roach v. State*, No. 06-17-00003-CR (Tex. App.—Texarkana Jul. 12, 2017) (not designated for publication).

Applicant contends that his appellate counsel rendered ineffective assistance because counsel failed to timely notify Applicant that his conviction had been affirmed and failed to advise him of his right to petition *pro se* for discretionary review. We remanded this application to the trial court

for findings of fact and conclusions of law.

Appellate counsel filed an affidavit with the trial court. Based on that affidavit, the trial court has entered findings of fact and conclusions of law that appellate counsel failed to timely notify Applicant that his conviction had been affirmed and failed to advise him of his right to petition for discretionary review *pro se*. The trial court recommends that relief be granted. *Ex parte Wilson*, 956 S.W.2d 25 (Tex. Crim. App. 1997).

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 Sixth Court of Appeals in Cause No. 06-17-00003-CR that affirmed his conviction in Cause No. 1625359 from the 8th District Court of Hopkins 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: February 27, 2019
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