IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-83,285-02

EX PARTE DARRYL EARL DANIELS, JR., Applicant

ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 114-0391-13-C IN THE 114TH DISTRICT COURT
FROM SMITH 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 aggravated robbery and sentenced to twenty years' imprisonment. The Twelfth Court of Appeals dismissed his appeal. *Daniels v. State*, No. 12-15-00023-CR (Tex. App.—Tyler Feb. 11, 2015) (not designated for publication).

Applicant contends, among other things, that he was denied his right to an appeal. We remanded this application to the trial court for findings of fact and conclusions of law. The trial court has determined that trial counsel failed to timely file a notice of appeal. We find that Applicant is

entitled to the opportunity to file an out-of-time appeal of the judgment of conviction in cause number114-0391-13 from the 114th District Court of Smith 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. Within ten days of the issuance of this opinion, the trial court shall determine whether Applicant is indigent. If Applicant is indigent and wishes to be represented by counsel, the trial court shall immediately appoint an attorney to represent Applicant on direct 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.

Copies of this opinion shall be sent to the Texas Department of Criminal Justice-Correctional Institutions Division and Pardons and Paroles Division.

Delivered: April 10, 2019

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