



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-91,087-01

EX PARTE JOSEPH JUAN FACUNDO, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 1344346-A IN THE 338TH DISTRICT COURT
FROM HARRIS COUNTY**

Per curiam.

OPINION

Applicant was convicted of capital murder and sentenced to life imprisonment. The First Court of Appeals affirmed his conviction. *Facundo v. State*, No. 01-15-00279-CR (Tex. App.—Houston [1st Dist] July 7, 2016)(not designated for publication). Applicant filed this application for a writ of habeas corpus in the county of conviction, and the district clerk forwarded it to this Court. *See* TEX. CODE CRIM. PROC. art. 11.07.

Applicant contends that appellate counsel failed to timely inform Applicant that his conviction had been affirmed. Counsel provided an affidavit stating that he has no record of informing Applicant of the outcome of his appeal due to his records being destroyed in Hurricane Harvey. Based on the record, the trial court has determined that Applicant was denied his right to

file a *pro se* petition for discretionary review.

Relief is granted. *Ex parte Riley*, 193 S.W.3d 900 (Tex. Crim. App. 2003). Applicant may file an out-of-time petition for discretionary review of the judgment of the First Court of Appeals in cause number 01-15-00279-CR. Should Applicant decide to file a petition for discretionary review, he must file it with this Court within thirty days from the date of this Court's mandate.

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

Delivered: June 17, 2020
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