

*Court Of Appeals*  
*Fourth Court of Appeals District of Texas*  
*San Antonio*



**MEMORANDUM OPINION**

No. 04-08-00359-CR

Pierre **MILLER**,  
Appellant

v.

The **STATE** of Texas,  
Appellee

From the 226th Judicial District Court, Bexar County, Texas  
Trial Court No. 2005-CR-6987A  
Honorable Gus J. Strauss, Judge Presiding

PER CURIAM

Sitting: Alma L. López, Chief Justice  
Catherine Stone, Justice  
Karen Angelini, Justice

Delivered and Filed: July 30, 2008

DISMISSED FOR LACK OF JURISDICTION

A clerk's record was filed in this appeal on June 13, 2008. This court previously disposed of appellant's appeal in *Miller v. State*, No. 04-06-00214-CR, 2006 WL 174857 (Tex. App.—San Antonio June 28, 2006, no pet.); therefore, we do not have jurisdiction to consider this second appeal. Although the clerk's record in this case also contains a motion for out of time appeal, the Texas Court of Criminal Appeals is the only court with jurisdiction to consider such a motion. See *Ater v. Eighth Court of Appeals*, 802 S.W.2d 241 (Tex. Crim. App. 1991) (out-of-time appeal from

final felony conviction may be sought by filing a writ of habeas corpus pursuant to article 11.07 of the Texas Code of Criminal Procedure). On June 20, 2008, we ordered appellant to show cause in writing why this appeal should not be dismissed for lack of jurisdiction. Appellant did not respond to our order. This appeal is dismissed for lack of jurisdiction.

PER CURIAM

DO NOT PUBLISH

