



NUMBER 13-12-00349-CR

COURT OF APPEALS

THIRTEENTH DISTRICT OF TEXAS

CORPUS CHRISTI - EDINBURG

EX PARTE CHRISTOPHER CARTER

**On appeal from the 130th District Court
of Matagorda County, Texas.**

MEMORANDUM OPINION

**Before Justices Rodriguez, Garza, and Vela
Memorandum Opinion Per Curiam**

Appellant, Christopher Carter, filed a pro se notice of appeal seeking to challenge an order denying a post-conviction writ of habeas corpus. On May 24, 2012, the Clerk of this Court notified appellant that it appeared that the order from which the appeal was taken was not an appealable order, and requested correction of this defect within ten days or the appeal would be dismissed. On June 7, 2012, appellant responded stating the Court has jurisdiction. Counsel for appellant filed a motion to withdraw and this Court abated and remanded this cause to the trial court.

The trial court made findings that appellant desires to prosecute the appeal, was not denied effective assistance of counsel, and is indigent. The trial court appointed

Mary Peter Cudd to represent appellant on appeal and further found that the plea admonishments and judicial confession made appellant fully aware of the consequences of agreeing to waive any right to appeal the case. On September 27, 2012, the Clerk of this Court again notified appellant that it appeared that the order from which the appeal was taken was not an appealable order, and requested correction of this defect within ten days or the appeal would be dismissed.

On October 18, 2012, counsel filed a response with this Court. Counsel's response advises that she has filed a "Notice of Appeal Pending Ruling on Request for Permission to Appeal From Trial Court and Ruling by the Court of Criminal Appeals in WR-77, 647-01 and 02." The motion requests the trial court grant permission to appeal.

The Texas Rules of Appellate Procedure provide that an appeal must be dismissed if the trial court's certification does not show that the defendant has the right of appeal. TEX. R. APP. P. 25.2(d); see TEX. R. APP. P. 37.1, 44.3, 44.4. Appellant has not been granted a right to appeal. Additionally, jurisdiction to grant post-conviction habeas corpus relief in felony cases rests exclusively with the Texas Court of Criminal Appeals. TEX. CODE CRIM. PROC. ANN. art. 11.07, § 5 (West Supp. 2011); *Bd. of Pardons & Paroles ex rel. Keene v. Court of Appeals for the Eighth Dist.*, 910 S.W.2d 481, 483 (Tex. Crim. App. 1995); *In re McAfee*, 53 S.W. 3d 715, 717–18 (Tex. App.—Houston [1st Dist.] 2001, orig. proceeding). Accordingly, this appeal is DISMISSED.

PER CURIAM

Do not publish. See TEX. R. APP. P. 47.2(b).

Delivered and filed the 1st
day of November, 2012.