



COURT OF APPEALS
EIGHTH DISTRICT OF TEXAS
EL PASO, TEXAS

DONALD TURNER,	§	No. 08-17-00063-CR
	§	
Appellant,	§	Appeal from
	§	
v.	§	243rd District Court
	§	
THE STATE OF TEXAS,	§	of El Paso County, Texas
	§	
Appellee.	§	(TC # 20030D03096)
	§	

MEMORANDUM OPINION

Donald Turner is attempting to appeal his convictions of indecency with a child (Counts I and II). A jury found Appellant guilty and the trial court assessed his punishment at life imprisonment. Finding that Appellant did not timely file his notice of appeal, we dismiss the appeal for lack of jurisdiction.

A timely notice of appeal is necessary to invoke this Court's jurisdiction. *Olivo v. State*, 918 S.W.2d 519, 522 (Tex.Crim.App. 1996). In a criminal case, a defendant's notice of appeal is due within thirty days after the sentence is imposed in open court or the trial court enters an appealable order. *See* TEX.R.APP.P. 26.2(a)(1). The deadline is extended to ninety days after the date the sentence is imposed in open court if the defendant timely files a motion for new trial. *See* TEX.R.APP.P. 26.2(a)(2). The judgment of conviction reflects that the trial court imposed sentence

in open court on May 27, 2004. Appellant appealed to this Court in 2004, and we issued an opinion and judgment affirming his convictions. *Turner v. State*, No. 08-04-00148-CR, 2006 WL 250482 (Tex.App.--El Paso February 2, 2006, pet. ref'd). The Court of Criminal Appeals denied Appellant's petition for discretionary review on July 26, 2006. Appellant has now filed a new notice of appeal from the same judgment of conviction. We do not have jurisdiction to hear a second appeal from the same judgment. Further, we do not have jurisdiction to grant habeas corpus relief. The Court of Criminal Appeals has exclusive authority to grant post-conviction relief if the defendant is confined as a result of a final felony conviction. *See* TEX.CODE CRIM.PROC.ANN. art. 11.07, § 3 (West 2015); *Ater v. Eighth Court of Appeals*, 802 S.W.2d 241, 243 (Tex.Crim.App. 1991)("We are the only court with jurisdiction in final post-conviction felony proceedings."). Accordingly, we dismiss the appeal for lack of jurisdiction.

April 26, 2017

ANN CRAWFORD McCLURE, Chief Justice

Before McClure, C.J., Rodriguez, and Palafox, JJ.

(Do Not Publish)