



COURT OF APPEALS
EIGHTH DISTRICT OF TEXAS
EL PASO, TEXAS

	§	No. 08-21-00215-CR
EX PARTE:	§	Appeal from the
JOSE HARPER,	§	384th District Court
Appellant.	§	of El Paso County, Texas
	§	(TC#20180D06489, 20180D06473
	§	and 20180D06475)

MEMORANDUM OPINION

Appellant, Jose Scott Harper, pro se, appeals the denial of pre-trial writ of habeas corpus heard by the trial court on December 6, 2021. We dismiss for want of jurisdiction.

On December 16, 2021, the Court issued a letter informing the parties no appealable order was found. Further, we gave notice of our intent to dismiss for lack of jurisdiction in 10 days unless any party could show grounds for continuing the appeal.

On December 23, 2021, Harper insisted we possessed jurisdiction but did not provide a copy of the alleged December 6, 2021, written order. On December 30, 2021, the Court received the State's response. The clerk's record was received on January 6, 2022. The clerk's record does not contain a written order denying the pre-trial writ of habeas corpus heard on December 6, 2021.

The State has correctly pointed out a pre-trial writ of habeas corpus must be denied with a

written order to properly invoke our jurisdiction. *State v. Wachtendorf*, 475 S.W.3d 895, 903-04 (Tex.Crim.App. 2015). When, as here, there is no written order from which to appeal, the court of appeals lacks jurisdiction over the appeal. *See State v. Sanavongxay*, 407 S.W.3d 252, 258-259 (Tex.Crim.App. 2012) (concluding that lack of written order leaves court of appeals without jurisdiction over appeal); *Nikrasch v. State*, 698 S.W.2d 443, 450 (Tex.App.—Dallas 1985, no pet.) (court of appeals has no jurisdiction over appeal absent written judgment or order).

Here, the record contains no written order denying Harper’s habeas application. *See Wachtendorf*, 475 S.W.3d at 903-04; *Sanavongxay*, 407 S.W.3d at 258; *Payne v. State*, No. 12-17-00143-CR, 2017 WL 2570829, at *1 (Tex.App.—Tyler, June 14, 2017 no pet.) (per curiam) (mem. op., not designated for publication) (dismissing appeal from pretrial habeas application for want of jurisdiction absent written order); *Walton v. State*, No. 02-18-00396-CR, No. 02-18-00397-CR, No. 02-18-00398-CR, 2018 WL 6424242, at *1 (Tex.App.—Fort Worth Dec. 6, 2018, no pet.) (per curiam) (mem. op., not designated for publication) (dismissing appeal for want of jurisdiction because appellate court had not received “a written order from the trial court—a prerequisite to appealability”); *Ex parte Wiley*, 949 S.W.2d 3, 4 (Tex.App.—Fort Worth 1996, no pet.).

Accordingly, we dismiss Harper’s appeal for want of jurisdiction. All pending motions are denied as moot.

YVONNE T. RODRIGUEZ, Chief Justice

February 28, 2022

Before Rodriguez, C.J., Alley, J., and Marion, C.J. (Ret.)
Marion, C.J. (Ret.) sitting by assignment

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