



COURT OF APPEALS
EIGHTH DISTRICT OF TEXAS
EL PASO, TEXAS

JOSE SCOTT HARPER,	§	No. 08-22-00001-CR
	§	
Appellant,	§	Appeal from the
	§	
v.	§	384th District Court
	§	
THE STATE OF TEXAS,	§	of El Paso County, Texas
	§	
Appellee.	§	(Trial Court Nos. 20180D06473;
	§	20180D06475; 20180D06489)

MEMORANDUM OPINION

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

In case number 08-21-00215-CR, on December 16, 2021, Harper attempted to appeal the denial of a pretrial writ of habeas corpus rendered from the bench on December 6, 2021. We dismissed for lack of jurisdiction.

Here, he files a second notice of appeal on January 4, 2022. The grounds for his appeal are identical to case number 08-21-00215-CR for the same hearing in the same trial court cause numbers. We take judicial notice of the clerk's record filed in 08-21-00215-CR. No written order is found in that clerk's record denying the pretrial writ of habeas corpus from the hearing held on December 6, 2021.

In Harper’s prior appeal we noted a pretrial writ of habeas corpus must be denied with a written order to properly invoke our jurisdiction. *State v. Wachtendorf*, 475 S.W.3d 895, 904 (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, 258-59 (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 904; *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*, Nos. 02-18-00396-CR, 02-18-00397-CR, & 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, as in his previous appeal in 08-21-00215-CR, we dismiss Harper’s appeal for want of jurisdiction.

March 4, 2022

YVONNE T. RODRIGUEZ, Chief Justice

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

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