

DISMISS; and Opinion Filed December 28, 2017.



**In The
Court of Appeals
Fifth District of Texas at Dallas**

No. 05-17-01453-CR

No. 05-17-01454-CR

No. 05-17-01455-CR

ERIC WAYNE BENNETT, Appellant

V.

THE STATE OF TEXAS, Appellee

**On Appeal from the 194th Judicial District Court
Dallas County, Texas
Trial Court Cause Nos. F01-58893-LM, F01-59108-NM and F01-76112-NM**

MEMORANDUM OPINION

Before Justices Lang, Brown, and Whitehill
Opinion by Justice Brown

Before the Court is Eric Wayne Bennett's motion for out of time appeals. On June 13, 2002, after appellant pleaded guilty to three aggravated robberies, the jury assessed punishment at sixty years in prison and a \$5,000 fine in each case. Appellant then filed three appeals with this Court in which he challenged the admission of extraneous offense evidence. We affirmed his convictions, and the Texas Court of Criminal Appeals refused his petitions for discretionary review. *Bennett v. State*, No. 05-02-01024-CR, 2003 WL 21384656 (Tex. App.—Dallas June 17, 2003, pet. ref'd) (not designated for publication). Our mandates issued on August 4, 2004.

On December 15, 2017, appellant filed his request for an out of time appeal in each of the three cases, stating he was denied the effective assistance of counsel on direct appeal when his attorney did not raise subject matter jurisdiction. The law is well-settled that the appropriate

vehicle for seeking an out-of-time appeal is by filing, “in the convicting court,” an article 11.07 writ of habeas corpus returnable to the Texas Court of Criminal Appeals. TEX. CODE CRIM. PROC. ANN. art. 11.07, § 4 (West 2002). We have no jurisdiction to grant an out of time appeal. *See* TEX. CODE CRIM. PROC. ANN. art. 11.07, § 4; *Ater v. Eighth Court of Appeals*, 802 S.W.2d 241, 243 (Tex. Crim. App. 1991) (Texas Court of Criminal Appeals is “the only court with jurisdiction in final post-conviction felony proceedings.”).

Because we lack jurisdiction over these cases, we dismiss these appeals.

/Ada Brown/

ADA BROWN
JUSTICE

Do Not Publish
TEX. R. APP. P. 47.2(b)

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**Court of Appeals
Fifth District of Texas at Dallas**

JUDGMENT

ERIC WAYNE BENNETT, Appellant

No. 05-17-01453-CR V.

THE STATE OF TEXAS, Appellee

On Appeal from the 194th Judicial District
Court, Dallas County, Texas

Trial Court Cause No. F01-58893-LM.

Opinion delivered by Justice Brown,
Justices Lang and Whitehill participating.

Based on the Court's opinion of this date, we **DISMISS** this appeal.

Judgment entered this 28th day of December, 2017.



**Court of Appeals
Fifth District of Texas at Dallas**

JUDGMENT

ERIC WAYNE BENNETT, Appellant

No. 05-17-01454-CR V.

THE STATE OF TEXAS, Appellee

On Appeal from the 194th Judicial District
Court, Dallas County, Texas

Trial Court Cause No. F01-59108-NM.

Opinion delivered by Justice Brown,

Justices Lang and Whitehill participating.

Based on the Court's opinion of this date, we **DISMISS** this appeal.

Judgment entered this 28th day of December, 2017.



**Court of Appeals
Fifth District of Texas at Dallas**

JUDGMENT

ERIC WAYNE BENNETT, Appellant

No. 05-17-01455-CR V.

THE STATE OF TEXAS, Appellee

On Appeal from the 194th Judicial District
Court, Dallas County, Texas

Trial Court Cause No. F01-76112-NM.

Opinion delivered by Justice Brown,

Justices Lang and Whitehill participating.

Based on the Court's opinion of this date, we **DISMISS** this appeal.

Judgment entered this 28th day of December, 2017.