

Opinion issued June 9, 2022



In The
Court of Appeals
For The
First District of Texas

NO. 01-21-00705-CR

LAWRENCE EDWARD THOMPSON, Appellant

V.

THE STATE OF TEXAS, Appellee

**On Appeal from the 228th District Court
Harris County, Texas
Trial Court Cause No. 1703989A**

MEMORANDUM OPINION

Appellant, Lawrence Edward Thompson, attempts to appeal the administrative judge's order denying his motion to recuse in post-conviction habeas corpus proceedings.

We dismiss the appeal for want of jurisdiction.

Background

On April 13, 2021, appellant pleaded guilty, and the trial court found appellant guilty of the felony offense of theft in trial court cause number 1703989. In September 2021, appellant filed a post-conviction application for a writ of habeas corpus in the trial court, assigned to trial court cause number 1703989A. A few days later, in the habeas proceeding, appellant filed a motion to recuse the trial judge. The trial judge declined to recuse himself and referred the motion to Judge Susan Brown, presiding judge of the Eleventh Administrative Judicial Region of Texas. Judge Brown denied the recusal motion on November 22, 2021. On December 13, 2021, appellant filed a notice of appeal from the order denying his motion to recuse. On December 30, 2021, appellant filed a motion to dismiss this appeal, noting that the time to file his notice of appeal from trial court cause number 1703989 has expired and asking this Court to dismiss his appeal.

The procedures for recusal of judges, in both civil and criminal cases, are set out in Texas Rule of Civil Procedure 18a. *See Arnold v. State*, 853 S.W.2d 543, 544 (Tex. Crim. App. 1993). An order denying a motion to recuse is reviewable only on

appeal from a final judgment. *See* TEX. R. CIV. P. 18a(j). This rule does not permit an appeal of an interlocutory order denying a recusal motion. *See Neveu v. State*, No. 01–14–00638–CR, 2014 WL 4890720, at *1 (Tex. App.—Houston [1st Dist.] Sept. 30, 2014, no pet.) (mem. op., not designated for publication). This Court has jurisdiction to hear appeals from interlocutory orders only in narrow circumstances not present here. *See id.*; *Means v. State*, 825 S.W.2d 260, 260 (Tex. App.—Houston [1st Dist.] 1992, no writ) (dismissing for lack of jurisdiction appeal from interlocutory order denying recusal motion).

Moreover, appellant’s underlying judgment in trial court cause number 1703989 is dated April 13, 2021 and appellant did not file a direct appeal. *See* TEX. R. APP. P. 26.2(a)(1). Thus, appellant’s felony conviction for theft is final. This Court has no jurisdiction over an appeal from an order denying a recusal motion in a post-conviction proceeding. *See Hamid v. State*, Nos. 01–12–00141–CR & 01–12–00142–CR, 2012 WL 1564332, at *1–2 (Tex. App.—Houston [1st Dist.] May 3, 2012, no pet.) (mem. op., not designated for publication) (dismissing appeal for lack of jurisdiction because only Court of Criminal Appeals has jurisdiction in final post-conviction felony proceedings).

Accordingly, this appeal is dismissed for lack of jurisdiction. Any pending motions are dismissed as moot.

We direct the Clerk to issue the mandate within 10 days of the date of this opinion. *See* TEX. R. APP. P. 18.1.

PER CURIAM

Panel consists of Chief Justice Radack and Justices Goodman and Hightower.

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