

Dismissed and Memorandum Opinion filed 21, 2011.



In The

Fourteenth Court of Appeals

NO. 14-11-00306-CR

NO. 14-11-00307-CR

NO. 14-11-00308-CR

JESUS AGUILAR, Appellant

V.

THE STATE OF TEXAS, Appellee

**On Appeal from the 149th District Court
Brazoria County, Texas
Trial Court Cause No. 57,943-A**

MEMORANDUM OPINION

Appellant was charged by indictment with intoxication manslaughter, intoxication assault, and felony driving while intoxicated. In accordance with the terms of a plea bargain agreement with the State, appellant entered a guilty plea to intoxication manslaughter and intoxication assault and the State abandoned the charge of felony driving while intoxicated. The trial court sentenced appellant on April 9, 2009, to confinement for 30 years (intoxication manslaughter) and 10 years (intoxication assault), to run concurrently, in the Institutional Division of the Texas Department of Criminal Justice.

On January 18, 2011, appellant filed a post-conviction application for writ of habeas. By order signed March 25, 2011, the trial court recommended the requested relief be denied and ordered the Clerk of the 149th District Court of Brazoria County to forward the record to the Court of Criminal Appeals. Instead, the appeal was assigned to this court.

Although the application for writ of habeas corpus is to be filed in trial court in which conviction was obtained, it must be returnable to Court of Criminal Appeals. *See* Tex. Code Crim. Proc. Ann. art. 11.07, § 3. Only the Court of Criminal Appeals possesses authority to grant relief in post-conviction habeas proceeding when there is a final felony conviction. *Id.* This Court lacks jurisdiction over an appeal from the trial court's denial of a petition for writ of habeas corpus seeking post-conviction relief from confinement for a felony conviction. *See Maye v. State*, 966 S.W.2d 140, 143 (Tex.App.-Houston [14th Dist.] 1998, no pet.).

Accordingly, the appeal is ordered dismissed.

PER CURIAM

Panel consists of Justices Anderson, Brown, and Christopher.

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