

Court of Appeals
Fourth Court of Appeals District of Texas
San Antonio



MEMORANDUM OPINION

No. 04-10-00854-CR

IN RE Harvey C. ORR

Original Mandamus Proceeding¹

PER CURIAM

Sitting: Karen Angelini, Justice
Steven C. Hilbig, Justice
Marialyn Barnard, Justice

Delivered and Filed: December 15, 2010

PETITION FOR WRIT OF MANDAMUS DENIED

On December 2, 2010, relator Harvey C. Orr filed a petition for writ of mandamus, complaining about his underlying felony conviction. In 2003, relator was convicted of aggravated sexual assault of a child, and was sentenced to fifteen years' confinement. On June 30, 2004, this court dismissed the appeal in Cause No. 04-04-00337-CR for lack of jurisdiction because Orr's notice of appeal was filed untimely. Therefore, Orr's felony conviction is final.

Only the Texas Court of Criminal Appeals has jurisdiction over matters related to post-conviction relief from an otherwise final felony conviction. *See Ater v. Eighth Court of Appeals*, 802 S.W.2d 241, 243 (Tex. 1991); *see also* TEX. CODE CRIM. PROC. ANN. art. 11.07 (Vernon Supp. 2008); *Board of Pardons & Paroles ex rel. Keene v. Court of Appeals for Eighth Dist.*, 910

¹ This proceeding arises out of Cause No. 2002-CR-7523, styled *State of Texas v. Harvey C. Orr*, pending in the 399th Judicial District Court, Bexar County, Texas, the Honorable Juanita Vasquez-Gardner presiding.

S.W.2d 481, 483 (Tex. Crim. App. 1995) (holding that “Article 11.07 provides the exclusive means to challenge a final felony conviction.”). Because the relief sought in Orr’s petition relates to post-conviction relief from an otherwise final felony conviction, we are without jurisdiction to consider his petition for writ of mandamus.

Accordingly, relator’s petition is **DISMISSED FOR LACK OF JURISDICTION.**

PER CURIAM

DO NOT PUBLISH