



## Fourth Court of Appeals San Antonio, Texas

### MEMORANDUM OPINION

No. 04-19-00099-CR

**IN RE** Gabriel James FUENTES

Original Habeas Proceeding<sup>1</sup>

PER CURIAM

Sitting:       Luz Elena D. Chapa, Justice  
                  Irene Rios, Justice  
                  Beth Watkins, Justice

Delivered and Filed: March 13, 2019

#### PETITION FOR WRIT OF HABEAS CORPUS DISMISSED FOR LACK OF JURISDICTION

In an opinion dated December 12, 2018, this court affirmed the trial court's judgment in relator's underlying criminal case. Relator has since filed a petition for discretionary review with the Texas Court of Criminal Appeals. On February 22, 2019, relator filed a pro se petition for writ of habeas corpus in this court in which he contends he is restrained of his liberty by the court's refusal to admit him to bail pending appeal. Relator asks that he be brought before this court and released on bail, or alternatively, that a hearing be scheduled to hear evidence on bail pending appeal.

"If the defendant requests bail after a petition for discretionary review has been filed, the Court of Criminal Appeals shall determine the amount of bail." TEX. CRIM. PROC. CODE

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<sup>1</sup> This proceeding arises out of Cause No. 2015CR5272W, styled *The State of Texas v. Gabriel James Fuentes*, pending in the 437th Judicial District Court, Bexar County, Texas, the Honorable Lori I. Valenzuela presiding.

§ 44.04(h). Additionally, an intermediate appellate court “does not possess original habeas corpus jurisdiction of a bail issue” in a criminal case. *Ortiz v. State*, 299 S.W.3d 930, 932 (Tex. App.—Amarillo 2009, no pet.) (mem. op.). Because we have no jurisdiction to grant the relief requested by relator, we dismiss his petition for writ of habeas corpus.

PER CURIAM

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