



Fourth Court of Appeals
San Antonio, Texas

MEMORANDUM OPINION

No. 04-21-00294-CR

EX PARTE Hector MARTINEZ

From the 175th Judicial District Court, Bexar County, Texas
Trial Court No. 1987CR4352-W1
Honorable Catherine Torres-Stahl, Judge Presiding

PER CURIAM

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

Delivered and Filed: August 4, 2021

DISMISSED FOR LACK OF JURISDICTION

Hector Martinez was convicted in 1988 of burglary of a habitation with intent to commit theft, and he was sentenced to eight years in prison. In March 2021, Martinez filed an application for a writ of habeas corpus pursuant to article 11.07 of the Texas Code of Criminal Procedure. On June 15, 2021, the trial court made findings of fact and conclusions of law and recommended the application be dismissed.

Martinez filed a “Notice of Appeal” in the trial court, which the trial court clerk forwarded to this court. This court does not have appellate jurisdiction in felony post-conviction habeas corpus proceedings except in certain cases in which applicant was placed on community supervision. *See* TEX. CODE CRIM. PROC. arts. 11.07, 11.072; *Ex parte Beard*, 494 S.W.3d 315, 315–16 (Tex. App.—Waco 2015, no pet.); *In re Coronado*, 980 S.W.2d 691, 692 (Tex. App.—

San Antonio 1998, orig. proceeding). Only the Court of Criminal Appeals has authority to release from confinement persons who have been finally convicted of felonies in this State. *Hoang v. State*, 872 S.W.2d 694, 697 (Tex. Crim. App. 1993).¹

We therefore dismiss this appeal for lack of jurisdiction.

PER CURIAM

DO NOT PUBLISH

¹ The clerk of the trial court transmitted the record of the habeas proceeding to the Texas Court of Criminal Appeals, where it was docketed as No. WR-92,801-01. On July 21, 2021, the Court of Criminal Appeals dismissed the application for a writ of habeas corpus without a written order, stating the sentence has been discharged and citing *Ex parte Harrington*, 310 S.W.3d 452 (Tex. Crim. App. 2010).