



Fourth Court of Appeals
San Antonio, Texas

MEMORANDUM OPINION

No. 04-22-00314-CR

EX PARTE Otis **GREER**

From the 227th Judicial District Court, Bexar County, Texas
Trial Court No. 1992CR3010W-W4
Honorable Kevin M. O'Connell, Judge Presiding

PER CURIAM

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

Delivered and Filed: July 13, 2022

DISMISSED FOR LACK OF JURISDICTION

On May 1, 1992, appellant Otis Greer was convicted of the felony offense of murder and sentenced to life imprisonment. On December 3, 2021, Greer filed a post-conviction writ of habeas corpus application pursuant to article 11.07 of the Texas Code of Criminal Procedure. *See* TEX. CODE CRIM. PROC. art. 11.07, § 3(a). The trial court denied Greer's application, and Greer filed a pro se notice of appeal challenging the trial court's denial.

Article 11.07 of the Texas Code of Criminal Procedure divides the responsibility to process writ applications for post-conviction relief between the convicting court and the court of criminal appeals. *Id.* art. 11.07 §§ 3, 5. It does not provide a role for an intermediate court of appeals, such as this one, to process these types of writ applications. *Ex parte Ruiz*, No. 05-17-00806-CR, 2017 WL 3276003, at *1 (Tex. App.—Dallas July 25, 2017, no pet.) (mem. op., not designated for

publication). Intermediate courts of appeals have no jurisdiction over post-conviction writs of habeas corpus in felony cases. *Bd. of Pardons & Paroles ex rel. Keene v. Court of Appeals for the Eighth Dist.*, 910 S.W.2d 481, 483 (Tex. Crim. App. 1995) (orig. proceeding); see *In re Coronado*, 980 S.W.2d 691, 692 (Tex. App.—San Antonio 1998, orig. proceeding); *Ex parte Ngo*, No. 02-16-00425-CR, 2016 WL 7405836, at *1 (Tex. App.—Fort Worth Dec. 22, 2016) (mem. op., not designated for publication) (appeal dismissed for lack of jurisdiction). Only the court of criminal appeals has jurisdiction to grant post-conviction release from confinement for persons with a felony conviction. TEX. CODE CRIM. PROC. art.11.07, § 3; *Hoang v. State*, 872 S.W.3d 694, 697 (Tex. Crim. App. 1993).

Because it appeared we did not have jurisdiction over this matter, we ordered Greer to show cause in writing by July 7, 2022 why this appeal should not be dismissed for lack of jurisdiction. In response, Greer filed a motion seeking an extension of time to file an out of time motion for new trial, motion to file an out of time motion for new trial and corresponding affidavit, and response arguing this court has jurisdiction over this matter because it is an appeal from a district court in Bexar County.

As an intermediate court of appeals, we can only review criminal appeals authorized by statute, and this generally includes appeals from either judgments of guilt or other appealable orders. See TEX. CODE CRIM. PROC. art. 44.02; *Ragston v. State*, 424 S.W.3d 49, 52 (Tex. Crim. App. 2014). Here, Greer is not appealing a judgment of guilt or other appealable order; instead, he is appealing an order denying his writ application seeking post-conviction relief. Accordingly, none of Greer's responses have shown how this court has jurisdiction, and to the extent Greer is asking us for permission to file an out of time appeal, we do not have such authority. See *Olivo v. State*, 918 S.W.3d 519, 522 (Tex. Crim. App. 1996); *Ater v. Eighth Court of Appeals*, 802 S.W.2d

241, 242-43 (Tex. Crim. App. 1991). Accordingly, we dismiss this appeal for lack of jurisdiction, and we deny all pending motions as moot.

PER CURIAM

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