



**COURT OF APPEALS
SECOND DISTRICT OF TEXAS
FORT WORTH**

NO. 02-16-00425-CR

EX PARTE HIEP DUC NGO

FROM THE 371ST DISTRICT COURT OF TARRANT COUNTY
TRIAL COURT NO. C-371-010869-0929149-C

MEMORANDUM OPINION¹

Appellant Hiep Duc Ngo attempts to appeal from the trial court's order recommending dismissal of his third state postconviction application for writ of habeas corpus.² Because we do not have subject matter jurisdiction, we dismiss this appeal.

¹See Tex. R. App. P. 47.4.

²Ngo has also previously filed a federal application for writ of habeas corpus, which was denied. See *Ngo v. Holland*, No. 4:13-CV-138-Y, 2013 WL 6284057, at *1–3 (N.D. Tex. Dec. 4, 2013).

A jury convicted Ngo of murder, and the trial court sentenced him to life imprisonment. See *Ngo v. State*, No. 2-08-421-CR, 2009 WL 1996289, at *1, *2 (Tex. App.—Fort Worth Jul. 9, 2009, pet. ref'd) (mem. op., not designated for publication). Ngo appealed to this court, and we affirmed his conviction, which became final after the court of criminal appeals refused his petition for review. *Id.* Ngo subsequently filed two postconviction applications for writ of habeas corpus, and both were denied. On September 12, 2016, Ngo filed another postconviction application for writ of habeas corpus in the trial court, and on October 13, 2016, the trial court made a finding that Ngo's application did not meet the requirements for consideration as a subsequent application for writ of habeas corpus and entered an order recommending the application be dismissed. See Tex. Code Crim. Proc. Ann. art. 11.07, § 4 (West 2015). Ngo attempts to appeal from this order.

This court has no jurisdiction over postconviction applications for writs of habeas corpus in felony cases. See *id.* art. 11.07; *Bd. of Pardons & Paroles ex rel Keene v. Court of Appeals for Eighth Dist.*, 910 S.W.2d 481, 483 (Tex. Crim. App. 1995) (orig. proceeding) (stating that “[j]urisdiction to grant post conviction habeas corpus relief on a final felony conviction rests exclusively with” the court of criminal appeals); *Nowlin v. State*, No. 02-15-00026-CR, 2015 WL 1743384, at *1 (Tex. App.—Fort Worth Apr. 16, 2015, no pet.) (mem. op., not designated for publication) (dismissing appeal of trial court's denial of subsequent writ application for want of jurisdiction). We notified Ngo that we lack jurisdiction over

this appeal and warned him that we could dismiss this appeal for want of jurisdiction unless we received a response showing grounds for continuing it by November 21, 2016. See Tex. R. App. P. 44.3. We have received no response showing grounds for continuing this appeal. We therefore dismiss this appeal for want of jurisdiction. See Tex. R. App. P. 43.2(f).

/s/ Lee Gabriel

LEE GABRIEL
JUSTICE

PANEL: LIVINGSTON, C.J.; GABRIEL and SUDDERTH, JJ.

DO NOT PUBLISH
Tex. R. App. P. 47.2(b)

DELIVERED: December 22, 2016