



**In the
Court of Appeals
Second Appellate District of Texas
at Fort Worth**

No. 02-20-00061-CR

DAKARI SMITH AKA DAKARI J. SMITH-FOOTE, Appellant

v.

THE STATE OF TEXAS

On Appeal from the 396th District Court
Tarrant County, Texas
Trial Court No. C-396-W011559-1543876-A

Before Sudderth, C.J.; Womack and Wallach, JJ.
Memorandum Opinion by Justice Womack

MEMORANDUM OPINION

On March 11, 2020, Appellant Dakari Smith a/k/a Dakari J. Smith-Foote filed a notice of appeal challenging the trial court's December 11, 2019 order adopting the State's proposed findings and denying Appellant's postconviction application for writ of habeas corpus. We sent Appellant two letters notifying him of our concern that we lack jurisdiction over this appeal because this court has no jurisdiction over matters relating to postconviction applications under Article 11.07 of the Code of Criminal Procedure. Tex. Code Crim. Proc. Ann. art. 11.07, § 5. In these letters, we informed Appellant that unless he, or any other party desiring to continue the appeal, filed a response showing grounds for continuing the appeal, this appeal could be dismissed. Although we received a response from Appellant, it does not show grounds for continuing the appeal.

We generally have jurisdiction to consider an appeal by a criminal defendant only from a judgment of conviction. *See McKown v. State*, 915 S.W.2d 160, 161 (Tex. App.—Fort Worth 1996, no pet.). We do not, however, have jurisdiction over a postconviction application for writ of habeas corpus in a felony case.¹ *See* Tex. Code Crim. Proc. Ann. art. 11.07, § 5; *see also Ater v. Eighth Court of Appeals*, 802 S.W.2d 241, 243 (Tex. Crim. App. 1991) (orig. proceeding) (stating that the Texas Court of

¹The record indicates that Smith pleaded guilty to the felony charge of evading arrest or detention while using a vehicle as a deadly weapon. *See* Tex. Penal Code Ann. § 38.04(b)(2)(A). Smith also pleaded true to the State's enhancement allegations.

Criminal Appeals is the “only court with jurisdiction in final post-conviction felony proceedings”). Accordingly, we dismiss this appeal for want of jurisdiction.

/s/ Dana Womack

Dana Womack
Justice

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Tex. R. App. P. 47.2(b)

Delivered: November 5, 2020