



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

No. 02-20-00088-CR

KURBY GERALD DECKER, Appellant

V.

THE STATE OF TEXAS

On Appeal from the 97th District Court
Clay County, Texas
Trial Court No. 93-11-0039C-CR

Before Gabriel, Kerr, and Birdwell, JJ.
Per Curiam Memorandum Opinion

MEMORANDUM OPINION

Appellant Kurby Gerald Decker attempts to appeal from the trial court's January 13, 2020 order dismissing his postconviction motion for default judgment. Because we conclude that we do not have jurisdiction over the appeal, we dismiss it.

In 1994, Decker was convicted of solicitation of capital murder and sentenced to thirty years' confinement in cause number 93-11-0039C-CR. It appears that Decker then filed several unsuccessful postconviction writs and motions. In July 2019 in the same cause number, Decker filed a motion for default judgment, arguing that the three trial judges who had presided over his trial and his postconviction proceedings had committed judicial activism and fraud, rendering his conviction void. Decker asked for a new sentencing hearing. On January 13, the trial court denied Decker's motion, noting that "[t]his court has lost all plenary power long ago." Decker now appeals this denial.

In criminal cases, we have jurisdiction over final judgments of conviction but do not have jurisdiction over collateral attacks of a final conviction. *See Dwall v. State*, No. 02-19-00446-CR, 2020 WL 370580, at *1 (Tex. App.—Fort Worth Jan. 23, 2020, no pet.) (per curiam) (mem. op., not designated for publication); *see also* Tex. Code Crim. Proc. Ann. art. 11.07, § 3(c). Decker's motion for default judgment attempted to collaterally attack his 1994 conviction. *See, e.g., In re Kennedy*, No. 12-17-00119-CR, 2017 WL 1534041, at *1 (Tex. App.—Tyler Apr. 28, 2017, orig. proceeding) (per curiam) (mem. op., not designated for publication).

We notified Decker that we questioned our jurisdiction on this basis and warned that we could dismiss his appeal if he failed to show grounds to continue the appeal. *See* Tex. R. App. P. 44.3. Although Decker filed three responses, he has not shown grounds by which we may exercise jurisdiction over his impermissible collateral attack on his 1994 conviction. Accordingly, we dismiss Decker's appeal. *See* Tex. R. App. P. 43.2(f).

Per Curiam

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

Delivered: July 23, 2020