



**In The
Court of Appeals
Seventh District of Texas at Amarillo**

No. 07-17-00195-CR

ALEX BALDOMINO, APPELLANT

V.

THE STATE OF TEXAS, APPELLEE

On Appeal from the 364th District Court
Lubbock County, Texas
Trial Court No. 2004-405,890, Honorable William R. Eichman II, Presiding

June 16, 2017

MEMORANDUM OPINION

Before QUINN, C.J., and CAMPBELL and PIRTLE, JJ.

Appellant Alex Baldomino attempts a second appeal from his conviction for aggravated assault with a deadly weapon. We affirmed his conviction in *Baldomino v. State*, No. 07-05-00286-CR, 2006 Tex. App. LEXIS 8071 (Tex. App.—Amarillo Sept. 11, 2006, pet. refused) (mem. op., not designated for publication). We dismiss his purported appeal for want of jurisdiction.

To be timely, a notice of appeal must be filed within thirty days after sentence is imposed or suspended in open court or within ninety days after that date if a motion for

new trial is timely filed. TEX. R. APP. P. 26.2(a). A timely notice of appeal is required to invoke our appellate jurisdiction. *Olivo v. State*, 918 S.W.2d 519, 522 (Tex. Crim. App. 1996). If the notice is untimely, we can take no action other than to dismiss for lack of jurisdiction. *Id.* at 523.

On May 30, 2017, appellant filed a “Notice of Appeal under New Retroactive Ruling” in the trial court, over a decade after his conviction and sentencing. Through the document, appellant seeks to set aside his conviction by contending that he was denied effective assistance of counsel at trial. As his notice of appeal is untimely, we have no jurisdiction over the matter and may take no action other than to dismiss the appeal. See *Olivo*, 918 S.W.2d at 523.

To the extent that appellant’s effort can be viewed as a petition for a writ of habeas corpus, we note that his conviction was for a felony. We lack authority to issue a post-conviction writ of habeas corpus and thereby vacate that conviction. See *Padiou v. Court of Appeals of Tex., Fifth Dist.*, 392 S.W.3d 115, 117 (Tex. Crim. App. 2013) (“It is well established that only the Court of Criminal Appeals possesses the authority to grant relief in a post-conviction habeas corpus proceeding where there is a final felony conviction.”); *Ex parte Castillo*, No. 07-11-00096-CV, 2011 Tex. App. LEXIS 2188, at *2 (Tex. App.—Amarillo Mar. 25, 2011, orig. proceeding) (mem. op.) (“We have no original habeas corpus jurisdiction in criminal matters.”).

Accordingly, we dismiss the appeal for want of jurisdiction.

Per Curiam

Do not publish.