



**In The
Court of Appeals
Sixth Appellate District of Texas at Texarkana**

No. 06-10-00215-CR

JAMES OWEN SPURLOCK, Appellant

V.

THE STATE OF TEXAS, Appellee

On Appeal from the 402nd Judicial District Court
Wood County, Texas
Trial Court No. 19,457-2006

Before Morriss, C.J., Carter and Moseley, JJ.
Memorandum Opinion by Justice Moseley

MEMORANDUM OPINION

James Owen Spurlock has filed a pro se notice of appeal, claiming to appeal from the trial court's denial of his post-conviction motion for DNA testing. We have now received the supplemental clerk's record containing the order signed by the trial court on December 22, 2010. That order only denies Spurlock's request for appointment of counsel because the trial court did not find reasonable grounds existed for the motion; it does not deny Spurlock's motion for post-conviction DNA testing itself.

The Texas Court of Criminal Appeals has recently held in *Gutierrez* that an order denying appointed counsel under Article 64.01(c) of the Texas Code of Criminal Procedure is not an appealable order under Texas Rule of Appellate Procedure 25.2(a)(2). *Gutierrez v. State*, 307 S.W.3d 318, 319, 323 (Tex. Crim. App. 2010); see TEX. R. APP. P. 25.2(a)(2); TEX. CODE CRIM. PROC. ANN. art. 64.01(c) (Vernon Supp. 2010).

We dismiss this appeal for want of jurisdiction.

Bailey C. Moseley
Justice

Date Submitted: January 5, 2011

Date Decided: January 6, 2011

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