



IN THE  
TENTH COURT OF APPEALS

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No. 10-08-00287-CR

TONY LEE JOHNSON,

Appellant

v.

THE STATE OF TEXAS,

Appellee

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From the 54th District Court  
McLennan County, Texas  
Trial Court No. 2006-1683-C2

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MEMORANDUM OPINION

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Tony Lee Johnson seeks to appeal from the trial court's denial of his motion to withdraw his guilty plea to capital murder. Johnson was sentenced to life without parole on February 14, 2008, and the trial court apparently gave Johnson permission to appeal the motion to withdraw's denial, but Johnson's notice of appeal was not filed until August 7, 2008. *See* TEX. R. APP. P. 26.2(a)(1) (providing that notice of appeal must be filed within 30 days after date sentence imposed or 30 days after entry of appealable order).

The Clerk of this Court warned Johnson that his appeal might be dismissed because his notice of appeal was not timely filed unless, within 21 days, a response was filed showing grounds for continuing the appeal. Johnson's response essentially requests an out-of-time appeal. We lack jurisdiction to grant an out-of-time appeal; that authority belongs exclusively to the Court of Criminal Appeals through a writ of habeas corpus. *See Parr v. State*, 206 S.W.3d 143, 144-45 (Tex. App.—Waco 2006, no pet.). Because Johnson's notice of appeal is untimely, we lack jurisdiction and dismiss his appeal.

PER CURIAM

Before Chief Justice Gray,  
Justice Vance, and  
Justice Reyna  
Appeal dismissed  
Opinion delivered and filed October 1, 2008  
Do not publish  
[CRPM]