



IN THE
TENTH COURT OF APPEALS

No. 10-10-00323-CR

EX PARTE SALVADOR ZAVALA

From the County Court
Navarro County, Texas
Trial Court No. 52,611

MEMORANDUM OPINION

Salvador Zavala pled no contest in 2004 to the offense of unlawfully carrying a weapon. TEX. PENAL CODE ANN. § 46.02 (Vernon Supp. 2010). This is a misdemeanor offense. *Id.* (b). Zavala also had a capital murder charge pending in Houston. Zavala has been attempting to file various applications for a writ of habeas corpus regarding the misdemeanor offense. In April of 2010, Zavala mailed an application to both the Navarro County Court and to the 13th Judicial District Court in Navarro County. In May, both judges signed a joint "Findings of Fact & Conclusions of Law with Respect to Application for Writ of Habeas Corpus" explaining why the application had no merit and noting that the application should be denied. We dismissed Zavala's appeal from those findings and conclusions. *Ex parte Zavala*, No. 10-10-00238-CR, 2010 Tex. App. LEXIS 6262 (Tex. App.—Waco Aug. 4, 2010, no pet. h.).

In August, Zavala sent another application for writ of habeas corpus to the District Attorney. The County Court signed an order denying the application on August 11, 2010, the same day the District Attorney received the application. Zavala seeks to appeal that order.

Based on information received by the County Clerk, there is no corresponding application for writ of habeas corpus filed with the County Clerk from which a record can be made and which we can review. The County Clerk sent us a courtesy copy of Zavala's August application which was provided by the District Attorney's office. Consequently, the County Clerk cannot provide us with a clerk's record that contains this pleading. We can certainly understand, under the circumstances of this particular case, why the County Court would promptly sign an order denying Zavala's application. However, because there is no appellate record of an application for writ of habeas corpus prompting the August 11, 2010 order, there is no appealable order over which we have jurisdiction. *See* TEX. R. APP. P. 26.2(a).

Accordingly, this appeal is dismissed.

TOM GRAY
Chief Justice

Before Chief Justice Gray,
Justice Reyna, and
Justice Davis
Appeal dismissed
Opinion delivered and filed November 3, 2010
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