



IN THE  
TENTH COURT OF APPEALS

—  
No. 10-11-00198-CR

EX PARTE SALVADOR ZAVALA

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

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MEMORANDUM OPINION

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Salvador Zavala pled no contest in 2004 to the offense of unlawfully carrying a weapon. TEX. PENAL CODE ANN. § 46.02 (West 2011). 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. We have dismissed Zavala's appeals twice. *See Ex parte Zavala*, No. 10-10-00323-CR, 2010 Tex. App. LEXIS 8806 (Tex. App.—Waco Nov. 3, 2010, no pet. h.); *Ex parte Zavala*, No. 10-10-00238-CR, 2010 Tex. App. LEXIS 6262 (Tex. App.—Waco Aug. 4, 2010, no pet. h.).

Zavala filed another application for a writ of habeas corpus with the trial court which the trial court denied. He has now attempted to appeal that order. In a letter

dated June 8, 2011, the Clerk of this Court notified Zavala that his appeal was subject to dismissal because it appeared the trial court did not rule on the merits of his application for writ of habeas corpus and there is no right of appeal from a refusal to issue a writ of habeas corpus when the trial court does not consider and resolve the merits of the application. *See Ex Parte Hargett*, 819 S.W.2d 866, 869 (Tex. Crim. App. 2004); *Ex Parte Okere*, 56 S.W.3d 846, 850 (Tex. App.—Fort Worth 2001, pet. ref'd). The Clerk also warned Zavala that the Court would dismiss the appeal unless, within 21 days of the date of the letter, a response was filed showing grounds for continuing the appeal. Zavala filed a response; however, it does not convince us that the trial court ruled on the merits of his application for writ of habeas corpus.

Accordingly, this appeal is dismissed.

TOM GRAY  
Chief Justice

Before Chief Justice Gray,  
Justice Davis, and  
Justice Scoggins  
Appeal dismissed  
Opinion delivered and filed June 29, 2011  
Do not publish  
[OT06]