



**IN THE
TENTH COURT OF APPEALS**

No. 10-15-00338-CR

JOHN GUSTAVO GOMEZ,

Appellant

v.

THE STATE OF TEXAS,

Appellee

**From the 361st District Court
Brazos County, Texas
Trial Court No. 15-001557-CV-361**

MEMORANDUM OPINION

Appellant John Gustavo Gomez appeals the trial court's denial of his Motion to Set Aside Conviction and Dismiss Charges. Gomez was sentenced to two years' community supervision on June 27, 1995 in Cause No. 23,503-361. On June 5, 1997, the trial court signed an order discharging Gomez from community supervision. On June

23, 2015, Gomez filed his motion to set aside his conviction.¹ The motion was denied by the trial court after a finding that it lacked jurisdiction.

The right of appeal in criminal cases is conferred by the Legislature, and a defendant may appeal only from judgments of conviction or interlocutory orders authorized as appealable. See TEX. CODE CRIM. PROC. ANN. art. 44.02; TEX. R. APP. P. 25.2(a)(2); see also *Ragston v. State*, 424 S.W.3d 49, 52 (Tex. Crim. App. 2014) (“[T]he standard for determining jurisdiction is not whether the appeal is precluded by law, but whether the appeal is authorized by law.”) (quoting *Abbott v. State*, 271 S.W.3d 694, 696-97 (Tex. Crim. App. 2008)). There is no statutory authority for a defendant to appeal an order granting or denying a motion for “judicial clemency.” See *Raley v. State*, 441 S.W.3d 647, 651 (Tex. App.—Houston [1st Dist.] 2014, pet. ref’d) (no statutory right to appeal order granting or denying judicial clemency); see also *Dewalt v. State*, 417 S.W.3d 678, 685 n.34 (Tex. App.—Austin 2013, pet. ref’d); *Cooksey v. State*, No. 05-12-00301-CR, 2013 WL 1934943, at *2 (Tex. App.—Dallas May 10, 2013, no pet.) (mem. op., not designated for publication). Because Gomez is not appealing from a judgment of conviction or an otherwise appealable order, we have no jurisdiction. See *Ragston*, 424 S.W.3d at 52; see also *Abbott*, 271 S.W.3d at 696-97. Accordingly, this appeal is dismissed.

REX D. DAVIS
Justice

¹ Although Gomez filed his motion under the cause number of his criminal conviction, No. 23,503-361, the Brazos County Clerk assigned a new civil number to the motion—15-001557-CV-361.

Before Chief Justice Gray,
Justice Davis, and
Justice Scoggins
Appeal dismissed
Opinion delivered and filed May 2, 2018
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