

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-01-00403-CR

Ex parte Shernon Madison Coleman

**FROM THE COUNTY COURT AT LAW NO. 2 OF BELL COUNTY
NO. 2C94-1476, HONORABLE JOHN BARINA, JR., JUDGE PRESIDING**

In 1994, Shernon Madison Coleman was convicted in the court below of unlawfully carrying a weapon and sentenced to incarceration for thirty days.¹ In 2001, he filed a “motion for post conviction relief” that was, in effect, a petition for a writ of habeas corpus challenging the legality of the conviction. *See* Tex. Code Crim. Proc. Ann. arts. 11.05, .09 (West 1977).² Two days later, the court issued an order denying the motion. This appeal followed. *See Ex parte Jordan*, 659 S.W.2d 827, 828 (Tex. Crim. App. 1983).

The record before us reflects that the court below refused to issue the writ of habeas corpus without considering or ruling on the merits of the petition. No appeal lies in such a case. *Ex parte Gonzales*, 12 S.W.3d 913, 914 (Tex. App.—Austin 2000, pet. ref’d).

¹ Coleman, who is presently a federal inmate, alleges that he continues to be restrained by the challenged conviction because it was used to enhance his present sentence. *See* Tex. Code Crim. Proc. Ann. art. 11.22 (West 1977).

² Coleman urges that his guilty plea was not voluntary because he did not knowingly waive his privilege against self-incrimination or his rights to counsel, trial by jury, and confrontation. The record, however, contains written admonishments and waivers.

The appeal is dismissed.

Marilyn Aboussie, Chief Justice

Before Chief Justice Aboussie, Justices B. A. Smith and Puryear

Dismissed for Want of Jurisdiction

Filed: November 8, 2001

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