

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-02-00078-CR

Kirk Wayne McBride, Appellant

v.

The State of Texas, Appellee

**FROM THE DISTRICT COURT OF COMAL COUNTY, 22ND JUDICIAL DISTRICT
NO. CR95-129, HONORABLE CHARLES R. RAMSAY, JUDGE PRESIDING**

Kirk Wayne McBride was convicted in this cause of aggravated sexual assault. The conviction was affirmed by this Court and is now final. *See McBride v. State*, No. 03-95-00596-CR (Tex. App.—Austin Mar. 20, 1997, pet. ref'd) (not designated for publication). On September 24, 2001, McBride filed a motion for new trial alleging newly discovered evidence and ineffective assistance of counsel. The motion was overruled by the district court on November 20, 2001, and McBride gave notice of appeal.

A trial court is without authority to grant a new trial in a felony case after a conviction becomes final as only the court of criminal appeals has such authority. *Ex parte Birdwell*, 7 S.W.3d 160, 162 (Tex. Crim. App. 1999) (quoting *Wilson v. State*, 562 S.W.2d 477, 479 (Tex. Crim. App. 1978)). Similarly, this Court is without jurisdiction to grant McBride the relief he seeks.

The appeal is dismissed.

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Jan P. Patterson, Justice

Before Justices Kidd, Patterson and Puryear

Dismissed for Want of Jurisdiction

Filed: March 7, 2002

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