

NO. 12-19-00177-CR

IN THE COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT

TYLER, TEXAS

***EARNEST EUGENE PALMER,
APPELLANT***

§ ***APPEAL FROM THE 369TH***

V.

§ ***JUDICIAL DISTRICT COURT***

***THE STATE OF TEXAS,
APPELLEE***

§ ***CHEROKEE COUNTY, TEXAS***

***MEMORANDUM OPINION
PER CURIAM***

Earnest Eugene Palmer was convicted of aggravated sexual assault of an elderly/disabled person in January 2016. Appellant subsequently filed a post-conviction motion for discovery, which the trial court denied on April 22, 2019. Appellant, acting pro se, filed a notice of appeal from the denial of his motion for discovery.

On May 13, this Court notified Appellant that the information received failed to show the jurisdiction of the Court, i.e., the order being appealed is not an appealable order. We informed Appellant that the appeal would be dismissed unless the information was amended on or before June 12 to show this Court’s jurisdiction. This deadline passed without a response from Appellant.

“[I]n Texas, appeals by either the State or the defendant in a criminal case are permitted only when they are specifically authorized by statute.” *State ex rel. Lykos v. Fine*, 330 S.W.3d 904, 915 (Tex. Crim. App. 2011). There exists no statutory authority permitting an appeal from an order denying a postconviction motion for discovery. *See Delgado-Gordon v. State*, No. 07-19-00189-CR, 2019 WL 2480047, at *1 (Tex. App.—Amarillo June 13, 2019, no pet. h.) (mem. op., not designated for publication); *see also Bibbs v. State*, No. 02-18-00391-CR, 2018 WL 5832161, at *1 n.2 (Tex. App.—Fort Worth Nov. 8, 2018, no pet.) (mem. op., not designated for publication). Accordingly, we *dismiss* Appellant’s appeal for *want of jurisdiction*. *See* TEX. R. APP. P. 43.2(f).

Opinion delivered June 28, 2019.

Panel consisted of Worthen, C.J., Hoyle, J., and Neeley, J.

(DO NOT PUBLISH)



COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT OF TEXAS

JUDGMENT

JUNE 28, 2019

NO. 12-19-00177-CR

EARNEST EUGENE PALMER,

Appellant

V.

THE STATE OF TEXAS,

Appellee

Appeal from the 369th District Court
of Cherokee County, Texas (Tr.Ct.No. 19103)

THIS CAUSE came on to be heard on the appellate record, and the same being considered, it is the opinion of this Court that it is without jurisdiction of the appeal, and that the appeal should be dismissed.

It is therefore ORDERED, ADJUDGED and DECREED by this Court that this appeal be, and the same is, hereby **dismissed for want of jurisdiction**; and that this decision be certified to the court below for observance.

By *per curiam* opinion.

Panel consisted of Worthen, C.J., Hoyle, J. and Neeley, J.