Fourth Court of Appeals
San Antonio, Texas

November 18, 2015

No. 04-15-00459-CR

Ex Parte Adam Wayne **INGRAM**,
Appellant
From the 186th Judicial District Court, Bexar County, Texas
Trial Court No. 2015W0279
Jefferson Moore, Judge Presiding

O R D E R

On January 5, 2015, Appellant filed a pretrial application for writ of habeas corpus. He raised facial constitutional challenges to Texas Penal Code Section 33.021, the statute under which he was indicted. The trial court's February 5, 2015 order denied the application. The order states the trial court decided the application on its merits, but the State acknowledges the trial court signed the order without holding a hearing on the application.

The State argues Appellant had thirty days from February 5, 2015, to file a post-judgment motion or notice of appeal. *See* TEX. R. APP. P. 26.2(a); *Olivo v. State*, 918 S.W.2d 519, 522 (Tex. Crim. App. 1996); *Ex parte Matthews*, 452 S.W.3d 8, 13 (Tex. App.—San Antonio 2014, no pet.); *Green v. State*, 999 S.W.2d 474, 476 (Tex. App.—Fort Worth 1999, pet. ref'd).

On July 14, 2015, Appellant filed another application for writ of habeas corpus seeking relief on what appears to be the identical bases asserted in the January 5, 2015 application. At the same time, Appellant filed a motion to set aside the February 5, 2015 order. In the motion, Appellant asserts the trial court inadvertently signed the February 5, 2015 order denying his January 5, 2015 application, and he did not receive notice of the February 5, 2015 order. The trial court denied the July 14, 2015 application, and on July 16, 2015, Appellant filed a notice of appeal.

In its brief, citing *State v. Swearingen*, 424 S.W.3d 32, 36 (Tex. Crim. App. 2014), the State argues Appellant's counsel received notice, and this court does not have jurisdiction to consider this appeal "because no timely notice of appeal was filed after the trial court's denial of Appellant's first application for pretrial writ of habeas corpus" and the denial was "final and became the law of the case."

We ORDER Appellant to show cause in writing within TWENTY DAYS from the date of this order why this appeal should not be dismissed for want of jurisdiction. *See Castillo*, 369 S.W.3d at 198; *Olivo*, 918 S.W.2d at 522. If Appellant does not show cause in writing within the time provided, this appeal may be dismissed for want of jurisdiction. *See* TEX. R. APP. P. 42.3(a).

PER CURIAM

ATTESTED TO: _____
Keith E. Hottle
Clerk of Court

