

COURT OF APPEALS FOR THE NINTH DISTRICT OF TEXAS AT BEAUMONT

James Dwayne Crowley v. the State of Texas

Crowley · No. 09-26-00081-CR · Decided April 1, 2026

SUMMARY

The Ninth Court of Appeals of Texas dismissed James Dwayne Crowley’s appeal for lack of jurisdiction. The court held that an order denying appointment of counsel for post-conviction DNA testing under Chapter 64 of the Texas Code of Criminal Procedure is interlocutory and not appealable, while noting that Crowley’s request for disclosure of DNA profiles and test data remained pending in the trial court.

CASE DETAILS

COURT	Court of Appeals for the Ninth District of Texas at Beaumont
WRITING FOR THE COURT	Golemon, C.J.; Johnson, J.; Wright, J.
JURISDICTION	Court of Appeals for the Ninth District of Texas at Beaumont
DECIDED	April 1, 2026
DOCKET	09-26-00081-CR
DISPOSITION	dismissed
PROCEDURAL POSTURE	Crowley appealed the trial court's interlocutory order denying his motion for appointment of counsel to pursue post-conviction DNA testing under Chapter 64 of the Texas Code of Criminal Procedure.
STANDARD OF REVIEW	The court determined its appellate jurisdiction as a matter of law based on the nature and finality of the challenged order.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	James Dwayne Crowley v. The State of Texas

TOPICS

- appellate jurisdiction
- interlocutory appeal
- appellate procedure
- post-conviction relief
- criminal procedure

PRACTICE AREAS

- criminal appellate procedure
- post-conviction DNA testing
- appellate jurisdiction

QUESTIONS PRESENTED

1. Whether an order denying appointment of counsel for purposes of pursuing post-conviction DNA testing under Chapter 64 is an appealable order.
2. Whether the court of appeals had jurisdiction over an appeal from that interlocutory order.

HOLDINGS

1. An order denying a motion for appointment of counsel is not an appealable order under Texas Rule of Appellate Procedure 25.2(a)(2), unlike a final order denying a motion for DNA testing under Texas Code of Criminal Procedure article 64.01.
2. Because the challenged order was interlocutory and not appealable, the court of appeals lacked jurisdiction and dismissed the appeal.

KEY QUOTATIONS

“An order denying a motion for appointment of counsel is not an appealable order within the meaning of Rule 25.2(a)(2) of the Texas Rules of Appellate Procedure.” (at 2)

“Because the order in question is interlocutory, we dismiss the appeal for lack of jurisdiction.” (at 2)

FACTUAL BACKGROUND

Crowley sought appointment of counsel in connection with a Chapter 64 request for post-conviction DNA testing and also sought disclosure of DNA profiles and testing data. The trial court denied appointment of counsel, but the disclosure request remained pending. Crowley appealed the order denying appointment of counsel before the trial court entered a final order denying DNA testing.

PROCEDURAL HISTORY

Crowley filed a motion for appointment of counsel and preservation or disclosure of DNA testing records in the trial court. The trial court denied appointment of counsel on January 16, 2026, while Crowley's request for disclosure of DNA profiles and testing data remained pending. The court of appeals dismissed the appeal for lack of jurisdiction because the order denying appointment of counsel was not an appealable order.

DISPOSITION

dismissed

CASES CITED

- Swearingen v. State, 189 S.W.3d 779, 781 (Tex. Crim. App. 2006)
- Gutierrez v. State, 307 S.W.3d 318, 321, 323 (Tex. Crim. App. 2010)

OPINION

PER CURIAM.

In The Court of Appeals Ninth District of Texas at Beaumont _____ NO. 09-26-00081-CR _____ JAMES DWAYNE CROWLEY, Appellant V. THE STATE OF TEXAS, Appellee

On Appeal
from the 435th District Court Montgomery County, Texas Trial Cause No. 15-10-11144

MEMORANDUM OPINION On November 10, 2025, James Dwayne Crowley (Crowley)¹ filed a Motion for Appointment of Counsel and Preservation/Disclosure of DNA Testing Records ¹ In the “Notice of Appeal” filed by Crowley from Cause No. 15-10-11144, Crowley uses the name “James Dwayne Crowley.” In the “Motion for Appointment of Counsel and Preservation/Disclosure of DNA Testing Records (Tex.Code.Crim.Proc. arts.

64.01-64.05 & 64.035[)]” which was filed by Crowley in Cause No. 15-10-11144, he uses the name “James Dwayne Crowley, Jr.” in his motion. In the “Order Denying Defendant’s Pro Se Motion to Appoint Counsel,” in Cause No. 15-10-11144 Crowley is named as “James Dwayne Crowley.” ¹ pursuant to Chapter 64 of the Texas Code of Criminal Procedure. See Tex. Code Crim.

Proc. Ann. art. 64.01. On January 16, 2026, the trial court denied Crowley’s motion to appoint counsel for purposes of seeking post-conviction DNA testing. Crowley’s motion seeking “disclosure of all DNA profiles and test data generated in this case” remains pending before the trial court. An appeal under Chapter 64 “is to a court of appeals in the same manner as an appeal of any other criminal matter[.]” See id. art. 64.05.

A notice of appeal must be filed within thirty days of the date the trial court signs an order denying DNA testing. See *Swearingen v. State*, 189 S.W.3d 779, 781 (Tex. Crim. App. 2006). An order denying a motion for appointment of counsel is not an appealable order within the meaning of Rule 25.2(a)(2) of the Texas Rules of Appellate Procedure. See *Gutierrez v. State*, 307 S.W.3d 318, 321, 323 (Tex.

Crim. App. 2010). Crowley argues a denial of counsel in response to a Chapter 64 filing constitutes a disposition of the statutory request for DNA testing. This argument is contrary to *Gutierrez*. See id. at 323. Crowley is attempting to appeal an order denying his motion for appointment of counsel. Unlike a final order denying a motion for DNA testing under article 64.01 which may be appealed, an order denying his motion for appointment of counsel is not an appealable order.

Because the order in question is interlocutory, we dismiss ² the appeal for lack of jurisdiction. See Tex. R. App. P. 43.2(f). Any pending motions are denied as moot. APPEAL DISMISSED. PER CURIAM Submitted on March 31, 2026 Opinion Delivered April 1, 2026 Do Not Publish Before Golemon, C.J., Johnson and Wright, JJ. 3

Retrieved from lawtools.ai · <https://lawtools.ai/cases/state/court-of-appeals-for-the-ninth-district-of-texas-at-beaumont-court-of-appeals-for-the-ninth-district/2026/james-dwayne-crowley-v-the-state-of-texas-ivmcft0w>