

**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.

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