

Missouri Court of Appeals

Southern Bistrict

Bivision Two

STATE OF MISSOURI,)
Respondent,)
VS.) No. SD3017
DONALD FERRELL,)
Appellant.)

APPEAL FROM THE CIRCUIT COURT OF CRAWFORD COUNTY

Honorable Kelly Parker, Judge

APPEAL DISMISSED

Donald Ferrell (Defendant) appeals from an order denying his release on probation under § 559.115. We dismiss the appeal because said order is not a final, appealable judgment.

There is no right of appeal without statutory authority. *State v. Williams*, 871 S.W.2d 450, 452 (Mo. banc 1994). In criminal cases, § 547.070 authorizes appeals from "final" judgments; a final judgment occurs when a sentence is entered; and probation is not part of a sentence. *Id.* "Consequently, there is no right to

 $^{^{\}rm 1}\,\text{Statutory}$ citations are to RSMo as amended through 2005.

appeal a trial judge's decision to grant or deny probation." Id. See also State v.

Mahurin, 207 S.W.3d 662, 662-63 (Mo.App. 2006); State v. Carrillo, 935

S.W.2d 328, 329 & n.1 (Mo.App. 1996).

Defendant's effort to distinguish this precedent² is not persuasive, partly

because it cites cases that were not direct appeals, but the type of writ actions that

Williams called "sufficient" remedies in this situation. See 871 S.W.2d at 452 n.2.

Whatever such cases³ hold on the merits, they do not support a direct appeal here or

undermine *Williams* on that issue.

Lacking authority to proceed, we dismiss this appeal.

Daniel E. Scott, Chief Judge

Rahmeyer, P.J., and Bates, J., concur

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Respondent's attorney: Chris Koster, Daniel N. McPherson

² These points wholly disregard Rule 84.04(d)(1)(A) and arguably preserve nothing for review, but we have exercised our discretion not to dismiss on that basis.

³ Defendant principally cites two mandamus cases: State ex rel. Mertens v. Brown, 198 S.W.3d 616, 619 (Mo. banc 2006) and State ex rel. Dane v. State,

115 S.W.3d 876, 879 (Mo.App. 2003).

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