



Fourth Court of Appeals
San Antonio, Texas

MEMORANDUM OPINION

No. 04-13-00523-CR

Jose **MORENO**,
Appellant

v.

The **STATE** of Texas,
Appellee

From the 399th Judicial District Court, Bexar County, Texas
Trial Court No. NM182574
Honorable Andrew Carruthers, Magistrate Judge Presiding

PER CURIAM

Sitting: Catherine Stone, Chief Justice
Karen Angelini, Justice
Luz Elena D. Chapa, Justice

Delivered and Filed: August 28, 2013

DISMISSED FOR LACK OF JURISDICTION

Jose Moreno filed a pro se notice of appeal from the Magistrate's July 15, 2013 ruling that Moreno is competent to stand trial. A competency hearing is an ancillary proceeding, and a competency order is not a final judgment. *Morales v. State*, 801 S.W.2d 624 (Tex. App.—Dallas 1990), *aff'd*, 830 S.W.2d 139, 140 (Tex. Crim. App. 1992) (per curiam). A preliminary finding that defendant is competent to stand trial is not appealable until after the trial on the merits. *Id.*; *Celani v. State*, 940 S.W.2d 327, 329 (Tex. App.—San Antonio 1997, pet. ref'd).

On August 5, 2013, we ordered appellant to show cause why his appeal should not be dismissed for lack of jurisdiction. Appellant's trial attorney has filed a response in which he concurs that there has been no appealable order. Accordingly, we dismiss this appeal for lack of jurisdiction.

PER CURIAM

DO NOT PUBLISH