

In The
Court of Appeals
Ninth District of Texas at Beaumont

NO. 09-17-00288-CV

IN RE COMMITMENT OF TRAVIS JEROME JOHNSON

On Appeal from the 435th District Court
Montgomery County, Texas
Trial Cause No. 03-05-03489-CV

MEMORANDUM OPINION

Travis Jerome Johnson was determined to be a sexually violent predator and committed for sex offender treatment. *See In re Commitment of Johnson*, 153 S.W.3d 129, 130 (Tex. App.—Beaumont 2004, no pet.). On June 19, 2017, the trial court signed an order denying Johnson’s motion for change of venue. Johnson filed a notice of appeal. We questioned our jurisdiction and the parties filed responses.

Generally, appeals may be taken only from final judgments. *Lehmann v. Har-Con Corp.*, 39 S.W.3d 191, 195 (Tex. 2001). Johnson argues the order denying his motion for a change of venue disposed of all pending claims and parties. In a civil

commitment case, however, the trial court retains jurisdiction while the commitment order remains in effect. *See In re Commitment of Cortez*, 405 S.W.3d 929, 932 (Tex. App.—Beaumont 2013, no pet.). Johnson has not identified a signed order by the trial court that is appealable at this time.¹

In response to this Court’s suggestion that the appeal is frivolous, Johnson argues that the appeal is not frivolous because he faces subsequent hearings that will be conducted in Montgomery County, and he believes he cannot receive a fair trial because in previous commitment trials, members of the venire will possibly have served in Montgomery County on a jury in a civil commitment trial. However, Johnson’s response to this Court’s jurisdictional inquiry reflects that he took the position that the trial court’s ruling on venue was a final order, but his response to our suggestion that his appeal was frivolous reveals that Johnson knew that the trial court’s venue ruling was not a final ruling on the matters involved in civil commitment proceedings. We conclude that Johnson’s attempt to appeal from an order that he knew was not final is frivolous. *See Tex. R. App. P. 45*. In the event

¹ Johnson requests that we consider his response as a mandamus petition, but neither the form nor the substance of his response presents a valid basis for granting mandamus relief. *See generally Tex. R. App. P. 52*. Accordingly, the request is denied.

Johnson files frivolous appeals from orders that are not final with this Court in the future, the Court will consider imposing sanctions. *See id.*

The appeal is dismissed for lack of jurisdiction. *See* Tex. R. App. P. 42.3(a); 43.2(f).

APPEAL DISMISSED.

HOLLIS HORTON
Justice

Submitted on August 30, 2017
Opinion Delivered August 31, 2017

Before McKeithen, C.J., Horton and Johnson, JJ.