

**In The**  
***Court of Appeals***  
***Ninth District of Texas at Beaumont***

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**NO. 09-17-00291-CV**

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**IN RE COMMITMENT OF ROBERT BURNS MCCALL**

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**On Appeal from the 435th District Court**  
**Montgomery County, Texas**  
**Trial Cause No. 14-07-07294-CV**

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**MEMORANDUM OPINION**

Robert Burns McCall was determined to be a sexually violent predator and committed for sex offender treatment. *See In re Commitment of McCall*, No. 09-15-00094-CV, 2016 WL 4040122, at \*1 (Tex. App.—Beaumont July 28, 2016, pet. dism'd w.o.j.) (mem. op.). On July 13, 2017, the trial court signed an order denying McCall's motion for change of venue. McCall 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). McCall 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.). The order from which McCall appealed is not a final order that is appealable at this time.<sup>1</sup>

In response to this Court's suggestion that the appeal is frivolous, McCall argues that the appeal is not frivolous because he faces subsequent hearings that will be conducted in Montgomery County and individual venire members' previous jury service in civil commitment proceedings might taint the potential jury pool. McCall's response reveals that his response to this Court's inquiry regarding jurisdiction, which claimed the venue ruling was the final ruling in the case, was less than forthcoming regarding the true status of the litigation. We conclude that the appeal is frivolous. *See Tex. R. App. P. 45*. In the event McCall files a frivolous

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

appeal 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.

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HOLLIS HORTON  
Justice

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

Before Kreger, Horton and Johnson, JJ.