

In The
Court of Appeals
Ninth District of Texas at Beaumont

NO. 09-17-00294-CV

IN RE COMMITMENT OF RICARDO DIAZ

On Appeal from the 435th District Court
Montgomery County, Texas
Trial Cause No. 07-09-08955-CV

MEMORANDUM OPINION

Ricardo Diaz was determined to be a sexually violent predator and committed for sex offender treatment. *See In re Commitment of Diaz*, No. 09-08-00303-CV, 2009 WL 2749958, at *1 (Tex. App.—Beaumont Aug. 31, 2009, no pet.) (mem. op.). On July 13, 2017, the trial court signed an order denying Diaz’s motion for change of venue. Diaz 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). Diaz 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.). Diaz 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, Diaz 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. In this response, Diaz 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 Diaz files a frivolous appeal with this Court in the future, the Court will consider imposing sanctions. *See id.*

¹Diaz 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.

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

APPEAL DISMISSED.

LEANNE JOHNSON
Justice

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

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