COURT OF APPEALS
SECOND DISTRICT OF TEXAS
FORT WORTH

NO. 02-17-00094-CR

CHARLES CLEVELAND NOWDEN — APPELLANT

V.

THE STATE OF TEXAS — STATE

FROM THE 297TH DISTRICT COURT OF TARRANT COUNTY
TRIAL COURT NO. 1182411D

MEMORANDUM OPINION[1]

Appellant Charles Cleveland Nowden filed a pro se "Notice of Appeal" on March 23, 2017, for "the denial of his Demand for Return of Seized Property, filed on August 11th, 2016."

On March 31, 2017, we sent Nowden a clerk's letter expressing our concern that we lacked jurisdiction over this appeal "because the trial court has

[1]*See* Tex. R. App. P. 47.4.

not entered any appealable orders." In the same clerk's letter, we gave Nowden until April 10, 2017, to file a response showing grounds for continuing the appeal, or else we would dismiss his appeal for want of jurisdiction. After one extension, on June 5, 2017, Nowden filed a pro se "Appellant's Brief with Exhibits."

Among the exhibits attached to his brief is his August 11, 2016 "Demand for Return of Seized Property" and a proposed order that the trial court had not ruled on. In his brief, Nowden asserted that his demand had been overruled by operation of law because more than nine months had passed since he filed that August 2016 demand. Nowden thus concedes there is no express ruling.

The only authority Nowden cites to support his assertion that his "Demand" was overruled by operation of law is *United States v. Mauro*, 436 U.S. 340, 352, 98 S. Ct. 1834, 1843 (1978). *Mauro* involved the Interstate Agreement on Detainers Act that was designed to encourage the expeditious and orderly disposition of outstanding charges against a prisoner and prescribed procedures by which member states might obtain for trial a prisoner incarcerated in another member jurisdiction and by which the prisoner might demand the speedy disposition of certain charges pending against him in another jurisdiction. *Id.* at 343, 98 S. Ct. at 1838–39. One provision under that Act, on which Nowden apparently relies, provides that "trial shall be commenced within one hundred and twenty days of the arrival of the prisoner in the receiving State" with the possibility of a continuance for "good cause shown." *Id.* at 352, 98 S. Ct. at 1843. Nowden's reliance on *Mauro* is misplaced; he is not proceeding under that Act.

Our review of Nowden's paperwork shows that he is attempting to recover property that the police seized because they suspected it was stolen but for which no criminal prosecution ever followed. Nowden thus seems to be attempting to recover his property under article 47.01a of the code of criminal procedure. *See* Tex. Code Crim. Proc. Ann. art. 47.01a (West 2006) ("Restoration [of allegedly stolen property] when no trial is pending"); *York v. State*, 373 S.W.3d 32, 43 (Tex. 2012) ("Chapter 47's only purpose is to provide a procedure for determining whether someone claiming allegedly stolen property has a superior right of possession to law enforcement officials."). There is no provision under article 47.01a for rulings by operation of law due to the passage of time. *See* Tex. Code Crim. Proc. Ann. art. 47.01a.

A final ruling under article 47.01a is appealable. *See* Tex. Code Crim. Proc. Ann. art. 47.12 (West 2006); *see also White v. State*, 930 S.W.2d 673, 675–77(Tex. App.—Waco 1996, no pet.). Yet Nowden has not shown that there has been a final ruling.

An appeal under article 47.12 is a criminal case substantively governed by civil appellate procedure. *See* Tex. Code Crim. Proc. Ann. art. 47.12(a); *White*, 930 S.W.2d at 675–76. Appellate courts generally have jurisdiction over final judgments only, unless a statute specifically authorizes an interlocutory appeal. *See Florance v. State*, 352 S.W.3d 867, 871 (Tex. App.—Dallas 2011, no pet.). Absent any order—final or otherwise—we must dismiss Nowden's appeal for want of jurisdiction. *See id.*

/s/ Elizabeth Kerr
ELIZABETH KERR
JUSTICE

PANEL: LIVINGSTON, C.J.; KERR and PITTMAN, JJ.

DO NOT PUBLISH
Tex. R. App. P. 47.2(b)

DELIVERED: July 13, 2017