



**COURT OF APPEALS
SECOND DISTRICT OF TEXAS
FORT WORTH**

**NO. 02-17-00311-CR
NO. 02-17-00312-CR
NO. 02-17-00313-CR
NO. 02-17-00314-CR**

LEE HERMAN HALL

APPELLANT

V.

THE STATE OF TEXAS

STATE

FROM THE 297TH DISTRICT COURT OF TARRANT COUNTY
TRIAL COURT NOS. 1466126D, 1471334D, 1471339D, 1471343D

MEMORANDUM OPINION¹

In appellate cause number 02-17-00311-CR, trial court cause number 1466126D (“the primary case”), pro se Appellant Lee Herman Hall attempts to appeal from the trial court’s judgment based on his plea bargain with the State.

¹See Tex. R. App. P. 47.4.

In each of the remaining cases, Appellant attempts to appeal from an order granting a plea in bar. See Tex. Penal Code Ann. § 12.45 (West 2011). We dismiss these appeals.

Appellant Bargained for and Received One Conviction and Sentence.

In the primary case, Appellant pled guilty and judicially confessed to the first-degree felony of possessing 200 or more but less than 400 grams of the Penalty Group 1 controlled substance methamphetamine in exchange for ten years' confinement and the State's waiver of the habitual offender paragraph. See Tex. Health & Safety Code Ann. § 481.102(6) (West Supp. 2017) (listing methamphetamine as a Penalty Group 1 substance), § 481.115(a), (e) (West 2017) (providing that possessing 200 or more but less than 400 grams of a Penalty Group I substance is a first-degree felony); Tex. Penal Code Ann. § 12.32 (West 2011) (providing range of confinement for a first-degree felony is 5–99 years and fine can range from \$0 to \$10,000). Additionally, Appellant waived all pretrial motions and all rights of appeal and averred that he was mentally competent and that his plea was free, knowing, voluntary, and uncoerced. His trial counsel signed a statement that he was “satisfied” that Appellant was legally competent and that the waiver of his rights had been intelligent, knowing, and voluntary. The trial court's certification of appeal provides that this is a plea-bargained case and Appellant has no right of appeal. See Tex. R. App. P. 25.2(a)(2), (d).

Prosecution Was Barred in the Other Three Cases Appealed.

As for the other three cases Appellant attempts to appeal, he admitted his guilt of each offense and with the State's consent, requested the trial court to take the offenses into consideration when sentencing him in the primary case. See Tex. Penal Code Ann. § 12.45(a). The trial court did so and ordered the prosecution for those three offenses barred. See *id.* § 12.45(c).

We Notified Appellant That All Four Appeals Would Be Subject to Dismissal.

Accordingly, we informed Appellant by letter that his appeal in the primary case would be subject to dismissal based on the trial court's certification unless he or any party desiring to continue the appeal filed a response showing grounds for continuing the appeal. We further informed him of our concern that we lack jurisdiction over his remaining three appeals because they stem not from convictions but from unadjudicated offenses. Appellant's response does not show grounds for continuing the appeals.

Appellant Cannot Appeal from the Primary Case.

Rule 25.2(a) allows a plea-bargaining defendant to appeal only matters raised by written motion and ruled on before trial or only with the trial court's permission. Tex. R. App. P. 25.2(a)(2). In the primary case, Appellant waived all his pretrial motions, and the trial court did not give him permission to appeal. He therefore has no right of appeal. See Tex. R. App. P. 25.2(d).

We Have No Jurisdiction Over His Three Remaining Appeals.

As for the other three appeals, an order granting a plea in bar is not a judgment of conviction. *See Hilburn v. State*, 946 S.W.2d 885, 886 (Tex. App.—Fort Worth 1997, no pet.). We lack appellate jurisdiction over an order granting a plea in bar. *Id.*; *see McKown v. State*, 915 S.W.2d 160, 161 (Tex. App.—Fort Worth 1996, no pet.) (providing an appellate court generally has jurisdiction to consider appeals by criminal defendants only after a final judgment of conviction). Consequently, we lack jurisdiction over each of Appellant’s three appeals challenging the trial court’s order granting the plea in bar. *See Hilburn*, 946 S.W.2d at 886.

We Dismiss All Four Appeals.

Accordingly, we dismiss the appeal in the primary case in conformity with the trial court’s certification of appeal. *See* Tex. R. App. P. 25.2(d), 43.2(f). We dismiss the three remaining appeals for want of jurisdiction. *See* Tex. R. App. P. 43.2(f); *Hilburn*, 946 S.W.2d at 886.

PER CURIAM

PANEL: PITTMAN, J.; SUDDERTH, C.J.; and WALKER, J.

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

DELIVERED: December 21, 2017