

NO. 07-00-0577-CR  
IN THE COURT OF APPEALS  
FOR THE SEVENTH DISTRICT OF TEXAS  
AT AMARILLO  
PANEL C  
JUNE 28, 2002

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JOHN EDWARD MAPP, JR.,  
Appellant

v.

STATE OF TEXAS,  
Appellee

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FROM THE 262<sup>ND</sup> DISTRICT COURT OF HARRIS COUNTY;  
NO. 847,675; HON. MICHAEL ANDERSON, PRESIDING

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*ON MOTION TO RECALL MANDATE*

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Before QUINN, REAVIS and JOHNSON, J.J.

By an unpublished opinion dated November 12, 2001, this Court affirmed appellant John Edward Mapp, Jr.'s conviction for failing to register as a sex offender. On June 19, 2002, appellant filed a motion entitled "Pro-Se Motion of Appellant's to Recall and Correct this Court of Appeals Mandate Issued 2/5/02." In it appellant argues that there was "fundamental and reversible error that calculated to injure the rights of the appellant at the punishment stage of the trial, and in the sentence part of the judgment." And, that "[i]n the

interest of justice . . . this Court . . . should recall and correct its mandate.” For the reasons that follow, we deny the motion.

This Court's plenary power over our judgment expired on January 11, 2001, or 60 days after judgment since no timely rehearing was filed. See TEX. R. APP. P. 19.1(a). So, while we may have the authority to recall our mandate, TEX. R. APP. P. 19.3(b), we lack jurisdiction to vacate or modify our judgment. See TEX. R. APP. P. 19.3. And, without plenary power to vacate or modify our judgment, recalling the mandate would not benefit appellant. See *Henderson v. State*, 977 S.W.2d 605, 605 (Tex. Crim. App. 1998) (denying leave to withdraw mandate) (Price, J., concurring). This is especially so when appellant does not contend that recalling the mandate is needed simply to correct a clerical error in our judgment or opinion but rather to reverse the trial court's judgment. See TEX. R. APP. P. 19.3(a) (stating that the mandate can be recalled to correct clerical errors in the judgment or opinion after the court lost its plenary jurisdiction).

Therefore, appellant's motion to recall the mandate is denied.

Brian Quinn  
Justice

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