

NO. 07-07-0394-CR
IN THE COURT OF APPEALS
FOR THE SEVENTH DISTRICT OF TEXAS
AT AMARILLO
PANEL B
OCTOBER 19, 2007

BRANDON ZAVALA, APPELLANT

V.

THE STATE OF TEXAS, APPELLEE

FROM THE 242ND DISTRICT COURT OF HALE COUNTY;

NO. A 13799-0008; HONORABLE ED SELF, JUDGE

Before QUINN, C.J., and CAMPBELL and HANCOCK, JJ.

MEMORANDUM OPINION

On August 27, 2007, the trial court convicted appellant Brandon Zavala of possession of marijuana, more than four ounces but less than one pound, and sentenced him to two years confinement in a state jail. See Tex. Health & Safety Code Ann. § 481.121 (a),(b)(3) (Vernon 2003). On September 20, 2007, appellant filed a motion for new trial and notice of appeal. See Tex. R. App. P. 21.4(a), 26.2(a)(2). The clerk of the trial court has provided us with documentation that on October 11, 2007, the trial court granted appellant's motion for new trial.

If the trial court grants a new trial, it restores the case to its position before the former trial. See Tex. R. App. P. 21.9. Because there is no longer an adjudicated issue for appellate review, we have no jurisdiction over the case except to dismiss the appeal. See *Waller v. State*, 931 S.W.2d 640, 643-44 (Tex.App.–Dallas 1996, no pet.).

Consequently, the appeal is dismissed for want of jurisdiction.

James T. Campbell
Justice

Do not publish.