

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

**NO. 03-13-00411-CR
NO. 03-13-00412-CR**

Kenneth N. Schlanker, Appellant

v.

The State of Texas, Appellee

**FROM COUNTY COURT AT LAW NO. 8 OF TRAVIS COUNTY,
NOS. C-1-CR-12-219551 & C-1-CR-12-219552,
HONORABLE CARLOS HUMBERTO BARRERA, JUDGE PRESIDING**

MEMORANDUM OPINION

In cause number 03-13-00411-CR, appellant Kenneth N. Schlanker seeks to appeal a judgment of conviction for evading arrest. The trial court has certified that this is a plea-bargain case and Schlanker has no right of appeal. *See* Tex. R. App. P. 25.2(a)(2), (d). Further, sentence was imposed on April 17, 2013, and no motion for new trial was filed. Accordingly, notice of appeal in this case was due on May 17, 2013, and not filed until May 24, 2013. *See* Tex. R. App. P. 26.2. Because Schlanker's notice of appeal was not timely filed, we lack jurisdiction to dispose of his attempted appeal in any manner other than dismissing it for want of jurisdiction. *See Castillo v. State*, 369 S.W.3d 196, 198 (Tex. Crim. App. 2012).

Separately, in cause number 03-13-00412-CR, Schlanker purports to appeal a judgment of conviction for failure to identify. However, from the record before us, it does not

appear that a judgment of conviction was ever entered for this charged offense. Instead, the record reflects that Schlanker pleaded guilty to this unadjudicated offense pursuant to section 12.45 of the Texas Penal Code. *See* Tex. Penal Code § 12.45(a) (allowing defendant to admit guilt to one or more unadjudicated offenses during sentencing hearing for another offense and request that court take each into account when determining sentence for offense for which defendant has been adjudicated). As a result, there is no judgment of conviction for this offense from which Schlanker may appeal. *See id.* § 12.45(c) (providing that prosecution is barred for unadjudicated offense). We dismiss these appeals for want of jurisdiction.

Scott K. Field, Justice

Before Chief Justice Jones, Justices Pemberton and Field

Dismissed for Want of Jurisdiction

Filed: July 19, 2013

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