

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-17-00023-CR

Marianne Geraci, Appellant

v.

The State of Texas, Appellee

**FROM COUNTY COURT AT LAW NO. 4 OF TRAVIS COUNTY
NO. C-1-CR-16-100023, THE HONORABLE MIKE DENTON, JUDGE PRESIDING**

ORDER AND MEMORANDUM OPINION

PER CURIAM

On January 11, 2017, appellant Marianne Geraci filed in this Court a notice of appeal of the county court at law's judgment rendered on December 13, 2016, which affirmed the judgment of conviction of the municipal court of record. *See* Tex. Gov't Code §§ 30.00014(a) (appeal of judgment from municipal court of record is to county court at law), 30.00027(a) (defendant convicted in municipal court of record may appeal to court of appeals if fine assessed against defendant exceeds \$100 and county court affirms municipal court's judgment). Appellant has now filed a motion to stay the proceedings in this Court because the county court at law granted appellant's motion for rehearing on January 19, 2017 and has scheduled a hearing on the motion for February 23, 2017.

We abate this appeal and remand the cause to the county court at law to conduct the hearing on appellant’s motion for rehearing and rule thereon. *See Williams v. State*, No. 03-11-00598-CR, 2013 WL 6921489, at *3 (Tex. App.—Austin Dec. 31, 2013, pet. ref’d) (once appellant has filed notice of appeal and record has been filed in appellate court, lower court lacks authority to act until it receives appellate court’s mandate) (citing Tex. R. App. P. 25.2(g)); *but see Lewis v. State*, 711 S.W.2d 41, 43 (Tex. Crim. App. 1986) (when appeal is abated by court of appeals, limited jurisdiction may be properly returned to trial court); *Nava v. State*, 480 S.W.3d 759, 763 (Tex. App.—Houston [1st Dist.] 2015), pet. ref’d) (“When an appeal is abated, the trial court regains limited jurisdiction.”). Following the hearing, the county court at law shall order the appropriate supplemental clerk’s and reporter’s records—including all orders—to be prepared and forwarded to this Court no later than March 24, 2017.

It is so ordered on this the 14th day of February, 2017.

Before Justices Puryear, Pemberton, and Goodwin

Abated and Remanded

Filed: February 14, 2017

Do Not Publish