ARKANSAS COURT OF APPEALS
NOT DESIGNATED FOR PUBLICATION
LARRY D. VAUGHT, JUDGE

DIVISION III

CACR06-1092

August 27, 2008

OCTAVIO RODRIGO
APPELLANT

V.

STATE OF ARKANSAS
APPELLEE

APPEAL FROM THE CONWAY COUNTY CIRCUIT COURT
[CR2005-126]

HON. PAUL E. DANIELSON, JUDGE

DISMISSED

After entering a plea of guilty to the charge of possession with the intent to deliver, Octavio Rodrigo attempts—for a second time—to appeal from the denial of his motion to suppress evidence based on his claim that he was subjected to an illegal stop and detention.

On May 2, 2007, in an unpublished decision, we dismissed his previous appeal because his notice of appeal neither mentioned nor referenced the final judgment and conviction entered against him on July 11, 2006. *See Rodrigo v. State*, No. CACR 06-1092, slip op. (Ark. App. May 2, 2007). In response to our dismissal, on June 22, 2007, Rodrigo's counsel tendered a motion to file a belated appeal, which was granted by our supreme court (via per curiam order) on September 6, 2007. The following day, on September 7, 2007, Rodrigo's original brief (the basis for our May 2, 2007 opinion) was resubmitted and docketed as "Brief

Filed Timely." And, although Rodrigo's appeal is now timely before our court, we once again dismiss the appeal for lack of jurisdiction.

In this appeal, our focus is concentrated on the purported "conditional" guilty plea into which Rodrigo attempted to enter. We begin by looking at the mandates contained in Arkansas Rule of Criminal Procedure 24.3(b):

> With the approval of the court and the consent of the prosecuting attorney, a defendant may enter a conditional plea of guilty or nolo contendre [contendere], reserving in writing the right, on appeal from the judgment, to review of an adverse determination of a pretrial motion to suppress evidence. If the defendant prevails on appeal, he shall be allowed to withdraw his plea.

The supreme court has interpreted Rule 24.3(b) to require strict compliance with the writing requirement in order for the appellate court to obtain jurisdiction. *See Green v. State*, 334 Ark. 484, 978 S.W.2d 300 (1998). Absent compliance with the express terms of Rule 24.3(b), we acquire no jurisdiction to hear an appeal, even when there has been an attempt at trial to enter a conditional plea. *Simmons v. State*, 72 Ark. App. 238, 242–243, 34 S.W.3d 768, 771 (2000).

In *Simmons*, our court concluded that Simmons's attempted conditional plea was not properly perfected as required by Rule 24.3(b) because his "Guilty Plea Statement" explicitly contradicted the notion that his plea was conditional and that he reserved the right to challenge the court's disposition of his motion to suppress. *Id.* at 242, 34 S.W.3d at 771. We found that his guilty-plea statement provided expressly that he waived *the right to challenge on appeal* the admissibility and consideration of evidence that may be presented against him, and *the right to appeal* from the judgment entered against him. *Id.* (emphasis added). Our court

ultimately dismissed Simmons's appeal because his conditional plea was not in compliance with 24.3(b). *Id*.

Here, the guilty-plea statement signed by Rodrigo makes no reservation of the right to appeal the suppression issue. It is a standard, unmodified guilty-plea statement, whereby Rodrigo gives up "[t]he right of appeal." Although, the record does contain a separate document where Rodrigo's right to appeal under Rule 24.3(b) is said to be "reserved," this document contradicts the signed "guilty plea statement." In one document Rodrigo abandons his appeal right, and in the other he specifically protects the right. Because such a contradiction violates the strict requirements of Rule 24.3(b) and leaves our court without jurisdiction over the appeal, we must dismiss Rodrigo's appeal for a second time.

Dismissed.

ROBBINS and GRIFFEN, JJ., agree.