

ARKANSAS COURT OF APPEALSDIVISION III
No. CACR 12-23TRACY M. STANDRIDGE
APPELLANT

V.

STATE OF ARKANSAS
APPELLEE

Opinion Delivered OCTOBER 24, 2012

APPEAL FROM THE BAXTER
COUNTY CIRCUIT COURT,
[NO. CR-10-218-4]HONORABLE ROBERT
MCCORKINDALE, II, JUDGE

DISMISSED

JOHN B. ROBBINS, Judge

Appellant Tracy M. Standridge was convicted in a jury trial of violating an order of protection, Class D felony, and he was sentenced to fifty-four months in prison. On appeal, Mr. Standridge argues that his conviction should be reversed because the protective order he was found to have violated was void, as it was entered without notice being given to him. Because Mr. Standridge did not file a notice of appeal from his conviction, we dismiss the appeal.

Mr. Standridge was on probation when the State charged him with the criminal offense of violating a protective order. The State also filed a petition to revoke his probation based on the commission of that crime. A jury trial was held on August 12, 2011, and the jury convicted Mr. Standridge of the underlying offense. On the same day, after the jury trial concluded, the trial court held a revocation hearing and revoked appellant's probation.

Two separate judgment and commitment orders were entered on August 17, 2011. In case number 2010-218, the trial court entered a conviction against Mr. Standridge and sentenced him to fifty-four months in prison. In case number 2010-57, the trial court revoked Mr. Standridge's probation and sentenced him to thirty months in prison.

Mr. Standridge filed a notice of appeal on September 9, 2011, where he gave his "notice to appeal his revocation hearing held on the 12th of August, 2011." The notice of appeal referenced only case number 2010-57 (the revocation), and Mr. Standridge gave no notice to appeal from his conviction in case number 2010-218, for which a separate judgment had been entered. Mr. Standridge's notice of appeal was sufficient to appeal from his revocation and resulting sentence in that case, and in a separate appeal we affirmed his revocation. *See Standridge v. State*, 2012 Ark. App. 563, ___ S.W.3d ___. However, his notice of appeal was ineffective as to the underlying conviction that he now attempts to appeal.

Rule 2(a)(4) of the Rules of Appellate Procedure—Criminal provides that a person desiring to appeal shall identify the judgment being appealed. The timely filing of a notice of appeal is, and always has been, jurisdictional. *Giacona v. State*, 39 Ark. App. 101, 839 S.W.2d 228 (1992). Whether the question is raised by the parties or not, it is not only the power, but also the duty, of a court to determine whether it has jurisdiction of the subject matter. *Id.* In the present case, Mr. Standridge has failed to file a notice of appeal, timely or otherwise, from the judgment of conviction arising from his jury trial on the underlying offense of violation of a protective order. Therefore, we dismiss the appeal without

prejudice for appellant to petition the supreme court for permission to file a belated appeal.

Dismissed.

WYNNE and HOOFFMAN, JJ., agree.

Crumpton & Collins, P.A., by: *Clifford C. Collins*, for appellant.

Dustin McDaniel, Att’y Gen., by: *Valerie Glover Fortner*, Ass’t Att’y Gen., for appellee.