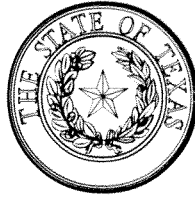


DISMISS; Opinion Filed February 13, 2013.



**In The
Court of Appeals
Fifth District of Texas at Dallas**

No. 05-11-01317-CR

TOMMY WILLIS COLEY, JR., Appellant

v.

THE STATE OF TEXAS, Appellee

On Appeal from the Criminal District Court No. 7
Dallas County, Texas
Trial Court Cause No. F11-11006-Y

MEMORANDUM OPINION

Before Justices Lang-Miers, Myers, and Richter¹
Opinion by Justice Myers

We reinstate this appeal. Tommy Willis Coley, Jr. was convicted of aggravated assault and sentenced to eight years' imprisonment. Appellant appealed his conviction, including issues that the trial court erred by denying his amended motion for new trial and by failing to conduct a hearing on his amended motion for new trial. We abated the appeal and ordered the trial court to conduct a hearing on the amended motion for new trial. The trial court held a hearing and granted appellant's amended motion for new trial.

1. The Hon. Martin Richter, Justice, Court of Appeals, Fifth District of Texas at Dallas, Retired, sitting by assignment.

When a trial court grants a motion for new trial, it restores the case to its position before the former trial. *See* TEX. R. APP. P. 21.9. Because there is no sentence to be appealed, we have no jurisdiction over this appeal. *See Waller v. State*, 931 S.W.2d 640, 643–44 (Tex. App.—Dallas 1996, no pet.). Accordingly, we dismiss the appeal for want of jurisdiction.



LANA MYERS
JUSTICE

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TEX. R. APP. P. 47
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**Court of Appeals
Fifth District of Texas at Dallas**

JUDGMENT

Tommy Willis Coley, Jr., Appellant

No. 05-11-01317-CR V.

The State of Texas, Appellee

On Appeal from the Criminal District Court
No. 7, Dallas County, Texas

Trial Court Cause No. F11-11006-Y.

Opinion delivered by Justice Myers.

Justices Lang-Miers and Richter
participating.

We **REINSTATE** this appeal. Based on the Court's opinion of this date, the appeal is **DISMISSED** for want of jurisdiction.

Judgment entered this 13th day of February , 2013.

A handwritten signature in cursive script that reads "Lana Myers".

LANA MYERS
JUSTICE