

Dismissed; Opinion Filed January 26, 2018



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

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No. 05-17-01414-CR

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**RODNEY SCOTT GIBBS, Appellant**  
**V.**  
**THE STATE OF TEXAS, Appellee**

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**On Appeal from the County Criminal Court No. 10**  
**Dallas County, Texas**  
**Trial Court Cause No. M17-18639-L**

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**MEMORANDUM OPINION**

Before Justices Francis, Evans, and Boatright  
Opinion by Justice Evans

Rodney Scott Gibbs appeals his conviction for assault family violence. After finding appellant guilty, the trial court assessed punishment at 365 days in the county jail, probated for eighteen months, and a \$300 fine. Appellant filed a timely notice of appeal, followed by a motion for new trial which was granted on January 22, 2018. The following day, appellate counsel filed a motion to withdraw the appeal. That motion, however, was not signed by appellant as required by Texas Rule of Appellate Procedure 42.2. TEX. R. APP. P. 42.2(a). Therefore, we deny appellant's motion.

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

We dismiss this appeal for want of jurisdiction.

Do Not Publish  
TEX. R. APP. P. 47.2(b)  
171414F.U05

/David Evans/  
DAVID EVANS  
JUSTICE

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

**JUDGMENT**

RODNEY SCOTT GIBBS, Appellant

No. 05-17-01414-CR      V.

THE STATE OF TEXAS, Appellee

On Appeal from the County Criminal Court  
No. 10, Dallas County, Texas

Trial Court Cause No. M17-18639-L.

Opinion delivered by Justice Evans, Justices  
Francis and Boatright participating.

Based on the Court's opinion of this date, we **DISMISS** this appeal for want of jurisdiction.

Judgment entered this 26th day of January, 2018.