

Dismissed; Opinion Filed June 8, 2018.



In The
Court of Appeals
Fifth District of Texas at Dallas

No. 05-18-00494-CR

KEVIN REID ALTHOUSE, Appellant
V.
THE STATE OF TEXAS, Appellee

On Appeal from the County Criminal Court No. 6
Dallas County, Texas
Trial Court Cause No. MA17-25469-G

MEMORANDUM OPINION

Before Justices Lang, Myers, and Stoddart
Opinion by Justice Myers

On April 17, 2018, Kevin Reid Althouse filed a notice of appeal, stating he was “appealing the Final Judgment of [the trial court] dismissing the above stated criminal action on March 19, 2018.” For the reasons that follow, we dismiss this appeal.

The clerk’s record shows appellant was charged with assaulting Joyce Kish on September 12, 2017. On March 19, 2018, the State filed a motion to dismiss, stating that (1) appellant was on parole for aggravated assault with a deadly weapon at the time of the Kish assault, (2) appellant’s parole was revoked, and (3) he was remanded to custody with a projected release date of May 2028. The State claimed that, in light of these facts, it could not justify the time and expense of prosecuting appellant for the Kish assault and asked that the case be dismissed. At the bottom of the motion is a section entitled “ORDER” which reads “On this the 19 day of March

2018, came to be heard the above Motion, and is hereby ___ GRANTED ___ DENIED.” It bears the signature of the trial judge but no indication of whether the motion was granted or denied.

“Jurisdiction concerns the power of a court to hear and determine a case.” *Olivo v. State*, 918 S.W.2d 519, 522 (Tex. Crim. App. 1996). The jurisdiction of an appellate court must be legally invoked, and, if not, the power of the court to act is as absent as if it did not exist. *See id.* at 523. As a general rule, an appellate court may consider appeals by criminal defendants only after conviction. *Wright v. State*, 969 S.W.2d 588, 589 (Tex. App.—Dallas 1998, no pet.). A court of appeals has no jurisdiction over an appeal absent a written judgment or other appealable order. *See Nikrasch v. State*, 698 S.W.2d 443, 450 (Tex. App.—Dallas 1985, no pet.).

In this case, the trial judge signed the motion to dismiss but did not indicate whether the State’s motion was granted or denied. Thus, there is no written judgment or other appealable order, and as a result, we have no jurisdiction over the appeal. *See id.*

We dismiss this appeal for want of jurisdiction.

/Lana Myers/

LANA MYERS
JUSTICE

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TEX. R. APP. P. 47.2(b)
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**Court of Appeals
Fifth District of Texas at Dallas**

JUDGMENT

KEVIN REID ALTHOUSE, Appellant

No. 05-18-00494-CR V.

THE STATE OF TEXAS, Appellee

On Appeal from the County Criminal Court

No. 6, Dallas County, Texas

Trial Court Cause No. MA17-25469-G.

Opinion delivered by Justice Myers,

Justices Lang and Stoddart participating.

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

Judgment entered this 8th day of June, 2018.