

DISMISS and Opinion Filed August 30, 2021



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

No. 05-21-00699-CR

No. 05-21-00700-CR

LINDSEY KINSER, Appellant

V.

THE STATE OF TEXAS, Appellee

**On Appeal from the Criminal District Court No. 6
Dallas County, Texas
Trial Court Cause Nos. F19-25055-X & F18-41626-X**

MEMORANDUM OPINION

Before Justices Molberg, Goldstein, and Smith
Opinion by Justice Smith

On August 16, 2021, Lindsey Kinser's notices of appeals were filed in the above appeals. According to the notices, appellant sought to appeal the trial court's July 20, 2021 order continuing appellant on probation in each case. Several other documents were filed along with the notices, including the trial court's August 4, 2021 order granting appellant's motion to withdraw her appeals and August 4, 2021 judgments adjudicating guilt in each case.

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.). With regards to deferred adjudication, the Legislature has

authorized appeal of only two types of orders: (1) an order granting deferred adjudication, and (2) an order imposing punishment pursuant to an adjudication of guilt. *Davis v. State*, 195 S.W.3d 708, 711 (Tex. Crim. App. 2006). Orders modifying the terms or conditions of deferred adjudication are not themselves appealable. *Id.* Because appellant’s notices of appeal challenge the trial court’s July 20, 2021 orders continuing her on probation, we lack jurisdiction over the appeals.

To the extent the trial court signed an order granting appellant’s motion to withdraw her appeals, we note that the rules of appellate procedure provide that “[a]t any time before the appellate court’s decision, the *appellate court* may dismiss the appeal upon the appellant’s motion.” TEX. R. APP. P. 42.2(a) (emphasis added). In other words, the trial court lacked authority to dismiss our appeals.

We dismiss these appeals.

/Craig Smith/
CRAIG SMITH
JUSTICE

Do Not Publish
TEX. R. APP. P. 47.2(b)
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**Court of Appeals
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JUDGMENT

LINDSEY KINSER, Appellant

No. 05-21-00699-CR V.

THE STATE OF TEXAS, Appellee

On Appeal from the Criminal District
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Trial Court Cause No. F19-25055-X.
Opinion delivered by Justice Smith.
Justices Molberg and Goldstein
participating.

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

Judgment entered August 30, 2021



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

JUDGMENT

LINDSEY KINSER, Appellant

No. 05-21-00700-CR V.

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

Judgment entered August 30, 2021