

DISMISS and Opinion Filed October 29, 2021



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

No. 05-21-00833-CR

No. 05-21-00834-CR

No. 05-21-00835-CR

DANIEL JUNIOR OLVERA-PEREZ, Appellant

V.

THE STATE OF TEXAS, Appellee

**On Appeal from the 292nd Judicial District Court
Dallas County, Texas
Trial Court Cause Nos. F17-55750-V, F18-54561-V & F18-54562-V**

MEMORANDUM OPINION

Before Justices Osborne, Pedersen, III, and Reichek
Opinion by Justice Reichek

On June 21, 2021, Daniel Junior Olvera-Perez filed a document entitled “Affidavit in Truth Notice of Appeal” with the Dallas County District Clerk. That document was forwarded to this Court on September 27, 2021. After reviewing the notice of appeal and the clerk’s records, we dismiss these appeals for want of jurisdiction.

Appellant was charged with unauthorized use of a motor vehicle, unlawful possession of a controlled substance, and theft of property, respectively. In cause numbers 05-21-00833-CR and 05-21-00834-CR, he was placed on deferred

adjudication. By order dated October 29, 2018, cause number 05-21-00835-CR was dismissed on the State's motion.

In cause numbers 05-21-00833-CR and 05-21-00834-CR, the State filed a motion to proceed to adjudication, alleging that appellant violated certain conditions of his deferred adjudication. Appellant pleaded true to the allegations and the trial court found appellant guilty in each case. On December 7, 2018, he was assessed punishment at 9 months in state jail for unauthorized use of a motor vehicle and 6 months in state jail for unlawful possession of a controlled substance.

A defendant perfects his appeal by timely filing a written notice of appeal with the trial court clerk. *See* TEX. R. APP. P. 25.2(c). To be timely, the notice of appeal must be filed within thirty days after the date sentence was imposed (or within ninety days if the defendant timely filed a motion for new trial). *See* TEX. R. APP. P. 26.2(a). In the absence of a timely perfected notice of appeal, the Court must dismiss the appeal. *Ex parte Castillo*, 369 S.W.3d 196, 198 (Tex. Crim. App. 2012); *Slaton v. State*, 981 S.W.2d 208, 210 (Tex. Crim. App. 1998).

In appellate cause numbers 05-21-00833-CR and 05-21-00834-CR, the trial court entered judgment on December 7, 2018. Because there were no timely filed motions for new trial, appellant's notice of appeal in each case was due on January 9, 2019. *See* TEX. R. APP. P. 26.2(a). His June 21, 2021 pro se notice of appeal was untimely, and as a result, we lack jurisdiction over those appeals.

With respect to appellate cause number 05-21-00835-CR, the Texas Legislature confers the right of appeal in criminal cases, and a party may appeal only from judgments of conviction or authorized orders. *See* TEX. CODE CRIM. PROC. ANN. art. 44.02, TEX. R. APP. P. 25.2(a)(2); *see also Ragston v. State*, 424 S.W.3d 49, 52 (Tex. Crim. App. 2014). Thus, the “standard for determining jurisdiction is not whether the appeal is precluded by law, but whether the appeal is authorized by law.” *Abbott v. State*, 271 S.W.3d 694, 696–97 (Tex. Crim. App. 2008). Here, the trial court dismissed the case. A defendant does not have a right to appeal a dismissal order. *See* TEX. R. APP. P. 25.2(a)(2); *see also Bohannan v. State*, 352 S.W.3d 47, 48 (Tex. App.—Fort Worth 2011, pet. ref’d) (order dismissing charging instrument is not appealable order for purposes of rule 25.2(a)(2)); *Petty v. State*, 800 S.W.2d 582, 583–84 (Tex. App.—Tyler 1990, no pet.) (per curiam) (dismissal of indictment is not appealable order).

Under these circumstances, we must dismiss these appeals for want of jurisdiction.

/Amanda L. Reichek/
AMANDA L. REICHEK
JUSTICE

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TEX. R. APP. P. 47.2(b)
210833F.U05



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

JUDGMENT

DANIEL JUNIOR OLVERA-
PEREZ, Appellant

No. 05-21-00833-CR V.

THE STATE OF TEXAS, Appellee

On Appeal from the 292nd Judicial
District Court, Dallas County, Texas
Trial Court Cause No. F17-55750-V.

Opinion delivered by Justice
Reichek. Justices Osborne and
Pedersen, III participating.

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

Judgment entered October 29, 2021.



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

JUDGMENT

DANIEL JUNIOR OLVERA-
PEREZ, Appellant

No. 05-21-00834-CR V.

THE STATE OF TEXAS, Appellee

On Appeal from the 292nd Judicial
District Court, Dallas County, Texas
Trial Court Cause No. F18-54561-V.
Opinion delivered by Justice
Reichek. Justices Osborne and
Pedersen, III participating.

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

Judgment entered October 29, 2021.



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

JUDGMENT

DANIEL JUNIOR OLVERA-
PEREZ, Appellant

No. 05-21-00835-CR V.

THE STATE OF TEXAS, Appellee

On Appeal from the 292nd Judicial
District Court, Dallas County, Texas
Trial Court Cause No. F18-54562-V.
Opinion delivered by Justice
Reichek. Justices Osborne and
Pedersen, III participating.

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

Judgment entered October 29, 2021.