

Opinion issued August 25, 2016



In The
Court of Appeals
For The
First District of Texas

NO. 01-16-00492-CR

PATRICIA ANN POTTS, Appellant
V.
THE STATE OF TEXAS, Appellee

On Appeal from the 262nd District Court
Harris County, Texas
Trial Court Case No. 1504370

MEMORANDUM OPINION

Appellant Patricia Ann Potts, acting pro se, has filed a notice of appeal that (1) purports to appeal the dismissal and refiling of the underlying criminal case under a new cause number, and (2) claims that she has been denied bail, a probable cause hearing, her right to jury trial, and her right to a speedy trial. The day before appellant

filed her notice of appeal in this case, she filed a similar notice of appeal under the prior trial court cause number that additionally claimed to appeal from a determination of incompetency to stand trial. We consider appellant's attempted appeal of her incompetency determination as part of this appeal. We dismiss this attempted interlocutory appeal for lack of jurisdiction.

The right to appeal in criminal cases is conferred by the legislature, and a party may appeal only from judgments of conviction or orders authorized as appealable. *See* TEX. CODE CRIM. PROC. ANN. art. 44.02 (West 2006); TEX. R. APP. P. 25.2(a)(2); *see also Ragston v. State*, 424 S.W.3d 49, 52 (Tex. Crim. App. 2014). We lack jurisdiction over this attempted appeal because the record does not contain an appealable judgment or order. First, the March 30, 2016 dismissal and refile of the underlying criminal case is not a judgment of conviction and no authority provides for an interlocutory appeal of such orders. Second, appellant's claims of being denied bail, a probable cause hearing, her right to a jury trial, and her right to a speedy trial do not arise from any judgment or order of the trial court. Even if appellant's claims were related to requests that were denied, any orders denying the requests are not judgments of conviction and no authority provides for an interlocutory appeal of such orders. Appellant is not attempting to appeal from the denial of a pretrial application for writ of habeas corpus challenging the denial of bail. *See Ex parte Gray*, 564 S.W.2d 713, 714 (Tex. Crim. App. 1978) ("The proper

method for challenging the denial or excessiveness of bail, whether prior to trial or after conviction, is by habeas corpus.”).

Finally, to the extent appellant seeks to appeal a determination of incompetency to stand trial, interlocutory appeals of such determinations are expressly prohibited by statute. *See* TEX. CODE CRIM. PROC. ANN. art. 46B.005 (governing determining incompetency to stand trial); *id.* art. 46B.011 (“Neither the state nor the defendant is entitled to make an interlocutory appeal relating to a determination or ruling under Article 46B.005.”) (West 2006).

Accordingly, because the record lacks a judgment of conviction or an appealable interlocutory order we dismiss this appeal for want of jurisdiction. *See* TEX. R. APP. P. 43.2(f). We dismiss any pending motions as moot.

PER CURIAM

Panel consists of Justices Bland, Massengale, and Lloyd.

Do not publish. TEX. R. APP. P. 47.2(b).