

**Opinion issued March 6, 2018**



**In The  
Court of Appeals  
For The  
First District of Texas**

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**NO. 01-16-00906-CR**

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**LUIS FELIPE FIERRO, Appellant  
V.  
THE STATE OF TEXAS, Appellee**

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**On Appeal from the 174th District Court  
Harris County, Texas  
Trial Court Case No. 1302306**

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**MEMORANDUM OPINION**

This Court's October 26, 2017 Memorandum Order of Abatement had granted the parties' joint motion to abate this appeal and remanded to allow appellant, Luis Felipe Fierro, to file a counseled out-of-time motion for new trial. On November 20, 2017, appellant filed a motion for new trial, which was granted on January 8,

2018. On January 18, 2018, appellant filed a motion to dismiss this appeal as moot after the trial court granted his motion for new trial. On February 26, 2018, a supplemental clerk's record was filed in this Court which included a certified copy of the trial court's January 8, 2018 order granting the motion for new trial.

The granting of a motion for new trial restores the case to its position before the former trial. *See* TEX. R. APP. P. 21.9(b). This appeal was rendered moot by the trial court's January 8, 2018 order granting a new trial. *See id.* Because there is no longer an appealable judgment of conviction, we have no jurisdiction over this appeal and can take no action other than to dismiss the appeal. *See Waller v. State*, 931 S.W.2d 640, 643–44 (Tex. App.—Dallas 1996, no pet.) (dismissing appeal for want of jurisdiction after motion for new trial granted because no sentence to be appealed); TEX. R. APP. P. 21.9(b).

Accordingly, we reinstate this case, grant appellant's motion to dismiss this appeal for want of jurisdiction, and dismiss the appeal as moot. *See* TEX. R. APP. P. 43.2(f). We dismiss any other pending motions as moot.

**PER CURIAM**

Panel consists of Justices Higley, Massengale, and Lloyd.

Do not publish.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