

Dismissed and Memorandum Opinion filed August 22, 2013.



In The

**Fourteenth Court of Appeals**

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**NOS. 14-13-00712-CR, 14-13-00713-CR,  
14-13-00714-CR and 14-13-00715-CR**

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**FREDRICHEE DOUGLAS SMITH, Appellant**

**V.**

**THE STATE OF TEXAS, Appellee**

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**On Appeal from the 339th District Court  
Harris County, Texas  
Trial Court Cause Nos. 1197969, 1197970, 1208812 & 1255072**

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**M E M O R A N D U M    O P I N I O N**

Gerald E. Bourque attempts to appeal from the denial of full compensation for his representation as appointed appellate counsel for Fredrichee Douglas Smith.<sup>1</sup> In an order signed June 26, 2013, the trial court approved payment to Bourque in the amount of \$6,825 for his representation in the four underlying

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<sup>1</sup> Appellant's combined brief in the appeals in the underlying criminal cases was filed June 20, 2013, and the appeals remain pending before this court. *See Smith v. State*, Nos. 14-11-00838-CR, 14-11-00839-CR, 14-11-00840-CR, and 14-11-00840-CR (Tex. App.—Houston [14th Dist.]).

appeals. Bourque complains in his notice of appeal that he was compensated only \$4,500.<sup>2</sup>

The records in these appeals do not contain an appealable order that is the subject of Bourque's complaint. The only signed order in our records is the trial court's order approving fees in these four cases. The notice of appeal was filed August 2, 2013, more than 30 days after the order was signed, and is untimely to perfect an appeal from that order. *See* Tex. R. App. P. 26.2 (requiring notice of appeal to be filed within 30 days of the entry of an appealable order). Moreover, the order is favorable to Bourque, and he is not challenging this order. . Instead, Bourque's complaint is that he was paid only \$4,500, pursuant to the presumptive maximum fee established by Harris County. Bourque's payment is evidenced only by a copy of a check dated July 23, 2013, from Harris County; there is no order associated with the payment. Though mandamus relief potentially may be available in an original proceeding filed against the Harris County Auditor or the Harris County Commissioners Court, this case is not a mandamus proceeding, and those entities are not parties to this attempted appeal. *See Smith v. Flack*, 728 S.W.2d 784, 789-94 (Tex. Crim. App. 1987).

This court lacks jurisdiction over these attempted appeals. Accordingly, we order the appeals dismissed.

#### PER CURIAM

Panel consists of Chief Justice Hedges and Justices Frost and Donovan.

Do Not Publish — Tex. R. App. P. 47.2(b).

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<sup>2</sup> Although the notice of appeal is addressed to the Presiding Judge of the Second Judicial Administrative Region, the appeals were assigned to this court. We presume, without deciding, that this notice of appeal constitutes a bona fide attempt to invoke this court's appellate jurisdiction.