

*Court Of Appeals
Fourth Court of Appeals District of Texas
San Antonio*



MEMORANDUM OPINION

Nos. 04-10-00142-CR; 04-10-00143-CR & 04-10-00144-CR

Darnell HINES,
Appellant

v.

The STATE of Texas,
Appellee

From the 226th Judicial District Court, Bexar County, Texas
Trial Court Nos. 2007CR11208; 2007CR11209 & 2007CR11210
Honorable Sid L. Harle, Judge Presiding

PER CURIAM

Sitting: Karen Angelini, Justice
Santee Bryan Marion, Justice
Phylis J. Speedlin, Justice

Delivered and Filed: March 10, 2010

DISMISSED FOR LACK OF JURISDICTION

In appeal numbers 04-10-00143-CR and 04-10-00144-CR, appellant seeks to appeal the trial court's orders granting the State's motion to dismiss the underlying criminal actions. Because the trial court's orders are not appealable orders, we lack jurisdiction to consider the appeals. *Petty v. State*, 800 S.W.2d 582, 583 (Tex. App.—Tyler 1990, no pet.); *see also Hernandez v. State*, No. 04-98-00988-CR, 1999 WL 62355, at *1 (Tex. App.—San Antonio Feb. 10, 1999, no pet.).

Accordingly, appeal numbers 04-10-00143-CR and 04-10-00144-CR are dismissed for lack of jurisdiction.

In appeal number 04-10-00142-CR, the trial court imposed sentence in the underlying cause on April 9, 2009. No timely motion for new trial having been filed, appellant's notice of appeal was due to be filed no later than May 11, 2009. *See* TEX. R. APP. P. 26.2. Appellant's notice of appeal was not filed with the trial court clerk until January 25, 2010. This court lacks jurisdiction over an appeal of a criminal conviction in the absence of a timely, written notice of appeal. *See Olivo v. State*, 918 S.W.2d 519, 522 (Tex. Crim. App. 1996); *see also Ater v. Eighth Court of Appeals*, 802 S.W.2d 241 (Tex. Crim. App. 1991) (out-of-time appeal from final felony conviction may be sought by filing a writ of habeas corpus pursuant to article 11.07 of the Texas Code of Criminal Procedure); *Apt v. State*, No. 04-03-00885-CR, 2004 WL 730832, at *1 (Tex. App.—San Antonio Apr. 7, 2004, no pet.) (unlike rule in civil cases, notice of appeal filed with appellate court in criminal case is not deemed filed the same day with the trial court clerk) (not designated for publication). Accordingly, appeal number 04-10-00142-CR is dismissed for lack of jurisdiction.

PER CURIAM

DO NOT PUBLISH