



**Fourth Court of Appeals**  
**San Antonio, Texas**

**MEMORANDUM OPINION**

No. 04-16-00640-CR

Robert **MARTINEZ** Jr.,  
Appellant

v.

The **STATE** of Texas,  
Appellee

From the 186th Judicial District Court, Bexar County, Texas  
Trial Court No. 2013CR6698  
Honorable Jefferson Moore, Judge Presiding

PER CURIAM

Sitting: Sandee Bryan Marion, Chief Justice  
Karen Angelini, Justice  
Marialyn Barnard, Justice

Delivered and Filed: November 2, 2016

DISMISSED FOR LACK OF JURISDICTION

The trial court signed an order on August 12, 2016 denying appellant's "various motions to Obtain Transcript and Record; Application Subpoena Duces Tecum and Subpoena Forms; Request for Court Order; and Motion to Set Subpoena and Bench Warrant." The notice of appeal was due to be filed September 12, 2016. TEX. R. APP. P. 26.2(a)(1). A motion for extension of time to file the notice of appeal was due on September 26, 2016. TEX. R. APP. P. 26.3. Appellant filed a *pro se* notice of appeal on September 26, 2016. Appellant did not file a motion for extension of time. This court lacks jurisdiction over an appeal of a criminal case in the absence of a timely,

written notice of appeal. *Olivo v. State*, 918 S.W.2d 519, 522 (Tex. Crim. App. 1996); *Shute v. State*, 744 S.W.2d 96, 97 (Tex. Crim. App. 1988). Further, we generally have jurisdiction to consider an appeal in a criminal case only when there has been a judgment of conviction. *See McKown v. State*, 915 S.W.2d 160, 161 (Tex. App.—Fort Worth 1996, no pet.). The August 12, 2016 order is not a judgment of conviction and there appears to be no statutory authority granting us the power to address this type of appeal.

Because it appeared this court lacked jurisdiction over this appeal, we ordered appellant's appointed counsel to show cause why this appeal should not be dismissed for want of jurisdiction. Counsel did not respond to our order.

We therefore dismiss this appeal for lack of jurisdiction.

PER CURIAM

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