



Fourth Court of Appeals San Antonio, Texas

MEMORANDUM OPINION

No. 04-18-00776-CR

The **STATE** of Texas,
Appellant

v.

Javier **MARTINEZ**, Jr.,
Appellee

From the County Court, Kinney County, Texas
Trial Court No. 10205CR
Honorable Spencer W. Brown, Judge Presiding

PER CURIAM

Sitting: Rebeca C. Martinez, Justice
 Patricia O. Alvarez, Justice
 Luz Elena D. Chapa, Justice

Delivered and Filed: January 30, 2019

DISMISSED FOR LACK OF JURISDICTION

The State filed a notice of appeal in this appeal on October 22, 2018, stating it was appealing the Order on Motion to Recuse and Jeopardy Motion for Dismissal signed by the trial court on October 15, 2018. The clerk's record was filed in this appeal on December 28, 2018; however, the clerk's record did not contain an appealable order.

After reviewing the order referenced in the notice of appeal that is contained in the clerk's record in other appeals, it appeared the trial court struck through the underlying trial court cause number on the exhibit listing the trial court cause numbers to which the trial court's ruling applied.

Accordingly, by order dated January 3, 2019, the State was ordered to show cause in writing by January 17, 2019, why this appeal should not be dismissed for lack of jurisdiction because no final, appealable order had been entered in the underlying cause. On January 16, 2019, the State filed a response to the motion conceding it had not filed a motion to recuse in the underlying trial court cause number. Therefore, because no final, appealable order has been entered in the underlying cause, this appeal is dismissed for lack of jurisdiction.

PER CURIAM

DO NOT PUBLISH