

In The
Court of Appeals
Ninth District of Texas at Beaumont

NO. 09-17-00293-CV

IN RE COMMITMENT OF WALTER MAURICE ESTES

On Appeal from the 435th District Court
Montgomery County, Texas
Trial Cause No. 11-03-02780-CV

MEMORANDUM OPINION

Walter Maurice Estes was determined to be a sexually violent predator and committed for sex offender treatment in 2011. He did not appeal. On June 19, 2017, the trial court signed an order denying Estes's motion for change of venue. On July 31, 2017, Estes filed a notice of appeal. We questioned our jurisdiction and the parties filed responses.

Generally, appeals may be taken only from final judgments. *Lehmann v. Har-Con Corp.*, 39 S.W.3d 191, 195 (Tex. 2001). Estes argues the order denying his motion for a change of venue disposed of all pending claims and parties. In a civil

commitment case, however, the trial court retains jurisdiction while the commitment order remains in effect. *See In re Commitment of Cortez*, 405 S.W.3d 929, 932 (Tex. App.—Beaumont 2013, no pet.). The order from which Estes appealed is not a final order that is appealable at this time.¹

In response to this Court’s suggestion that the appeal is frivolous, Estes argues that the appeal is not frivolous because he faces subsequent hearings that will be conducted in Montgomery County and individual venire members’ previous jury service in civil commitment proceedings might taint the potential jury pool. In this response, Estes reveals that his response to this Court’s inquiry regarding jurisdiction, which claimed the venue ruling was the final ruling in the case, was less than forthcoming regarding the true status of the litigation. We conclude that the appeal is frivolous. *See Tex. R. App. P. 45*. In the event Estes files a frivolous appeal with this Court in the future, the Court will consider imposing sanctions. *See id.*

The appeal is dismissed for lack of jurisdiction. *See Tex. R. App. P. 42.3(a); 43.2(f)*.

¹ Estes requests that we consider his response as a mandamus petition, but neither the form nor the substance of the response presents a valid basis for granting mandamus relief. *See generally Tex. R. App. P. 52*. Accordingly, the request is denied.

APPEAL DISMISSED.

HOLLIS HORTON
Justice

Submitted on August 30, 2017
Opinion Delivered August 31, 2017

Before McKeithen, C.J., Kreger and Horton, JJ.