



**COURT OF APPEALS
SECOND DISTRICT OF TEXAS
FORT WORTH**

NO. 02-13-00199-CR

VICTOR MARTINEZ

APPELLANT

V.

THE STATE OF TEXAS

STATE

FROM THE 396TH DISTRICT COURT OF TARRANT COUNTY

MEMORANDUM OPINION¹

The trial court granted Appellant Victor Martinez's motion for new trial after adjudicating him guilty of aggravated assault with a deadly weapon. An order granting a motion for new trial restores a case to its position before the former trial, and there is no longer a judgment in place. See Tex. R. App. P. 21.9(b). Absent a judgment of conviction, we have no jurisdiction over this appeal. See

¹See Tex. R. App. P. 47.4.

McKown v. State, 915 S.W.2d 160, 161 (Tex. App.—Fort Worth 1996, no pet.) (holding that appellate court generally has jurisdiction to consider an appeal by a criminal defendant only when there has been a judgment of conviction). Accordingly, we dismiss this appeal for want of jurisdiction. See Tex. R. App. P. 43.2(f); *Hicks v. State*, Nos. 05-11-01341-CR, 05-11-01342-CR, 2011 WL 6119122, *1 (Tex. App.—Dallas Dec. 9, 2011, no pet.) (mem. op., not designated for publication) (dismissing appeal after trial court adjudicated appellant’s guilt but then granted new trial).

PER CURIAM

PANEL: MEIER, J.; LIVINGSTON, C.J.; and GABRIEL, J.

DO NOT PUBLISH
Tex. R. App. P. 47.2(b)

DELIVERED: August 1, 2013