

NO. 07-10-00494-CV
IN THE COURT OF APPEALS
FOR THE SEVENTH DISTRICT OF TEXAS
AT AMARILLO
PANEL B
APRIL 13, 2011

CHARLES DEWAYNE STEPHEN, APPELLANT

v.

THE STATE OF TEXAS, APPELLEE

FROM THE 251ST DISTRICT COURT OF RANDALL COUNTY;
NO. 18,176-C; HONORABLE ANA ESTEVEZ, JUDGE

Before QUINN, C.J., and CAMPBELL and HANCOCK, JJ.

ORDER OF DISMISSAL

On December 16, 2010, this Court addressed a document entitled "Notice of Appeal" that was filed by Stephen in this cause number. Stephen's notice of appeal sought to challenge the trial court's Order to Withdraw Inmate Funds. After reviewing the notice of appeal as well as the clerk's record, this Court construed Stephen's notice of appeal to actually be a motion to rescind the withdrawal notification that was mistakenly filed in this Court rather than in the trial court. Stephen v. State, No. 07-10-0494-CV, 2010 Tex.App. LEXIS 10040, at *9 (Tex.App.—Amarillo Dec. 16, 2010, no pet.). As a result of this construction, we abated the appeal for 90 days and remanded

the case to the trial court to allow the trial court to rule on Stephen's pending motion to rescind the withdrawal notification. Id. at *9-*10. After expiration of the abatement period, this case was reinstated on April 11, 2011.

Upon reinstatement, however, it appears that the trial court has not ruled on Stephen's pending motion to rescind the withdrawal notification. Further, the record does not reflect that Stephen has asserted that the trial court's failure to rule on this pending motion within the 90 days that this appeal was abated is unreasonable. As such, we conclude that Stephen's "notice of appeal" was prematurely filed and does not seek appeal from a final, appealable order. See Williams v. State, 322 S.W.3d 301, 303-04 (Tex.App.—Amarillo 2010, no pet.). Consequently, we now dismiss this appeal for want of jurisdiction.

Mackey K. Hancock
Justice