



**In The
Court of Appeals
Seventh District of Texas at Amarillo**

No. 07-11-0069-CR

GREGORY THORNTON, APPELLANT

V.

THE STATE OF TEXAS, APPELLEE

On Appeal from the 140th District Court
Lubbock County, Texas
Trial Court No. 2008-419,888
Honorable Jim Bob Darnell, Presiding

March 6, 2013

**ORDER DENYING AGREED MOTION FOR
PERSONAL RECOGNIZANCE BOND**

Before Quinn, C.J. and Hancock and Pirtle, JJ.

On August 7, 2012, this Court reversed Gregory Thornton's conviction for tampering with evidence and rendered a judgment of acquittal. See *Thornton v. State*, 377 S.W.3d 814 (Tex.App.—Amarillo 2012), *vacated*, 2013 Tex. Crim. App. Unpub. LEXIS 48 (Tex.Crim.App. Jan. 9, 2013). On September 28, 2012, prior to the filing of

the State's Petition for Discretionary Review, this Court granted Appellant's request for bail pursuant to article 44.04(h) of the Texas Code of Criminal Procedure. Bail was set at \$10,000. Finding that this Court issued its opinion in this case without the benefit of its recent opinion in *Bowen v. State*, 374 S.W.3d 427 (Tex.Crim.App. 2012), the Court of Criminal Appeals ordered that the judgment of this Court be *vacated* and remanded for further consideration.

Pending before this Court is an *Agreed Motion for Personal Recognizance Bond* by which the State agrees that Appellant may be released on a personal recognizance bond of \$5,000, as determined by the trial court, pending a decision by this Court on remand from the Texas Court of Criminal Appeals. We deny that motion.

The vacation of the judgment of a lower court has the effect of rendering that judgment a nullity. It is as if that judgment had never been rendered. See *Bramlett v. Phillips*, 359 S.W.3d 304, 310 (Tex.App.--Amarillo 2012, pet. granted); *Cessna Aircraft Co. v. Aircraft Network, LLC*, 345 S.W.3d 139, 145 (Tex.App.--Dallas 2011, no pet.). Because the judgment of this Court was vacated, the reversal of Appellant's conviction is a nullity. Because the reversal is a nullity, the original judgment of the lower court continues to be the judgment entered in this case. Because Appellant stands convicted of an offense where the punishment equals or exceeds 10 years confinement, he is not eligible for release on bail pending disposition of this appeal. See TEX. CODE CRIM. PROC. ANN. ART. 44.04(b) (WEST 2006). Accordingly, the agreed relief requested is denied.

It is so ordered.

Per Curiam

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