

NO. 07-12-0313-CR

IN THE COURT OF APPEALS

FOR THE SEVENTH DISTRICT OF TEXAS

AT AMARILLO

PANEL D

AUGUST 10, 2012

JOE DANIEL LUNA,

Appellant

v.

THE STATE OF TEXAS,

Appellee

FROM THE 242nd DISTRICT COURT OF HALE COUNTY;

NO. B19083-1203; HON. EDWARD LEE SELF, PRESIDING

Order of Dismissal

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

Appellant Joe Daniel Luna was convicted of aggravated assault. Sentence was imposed on June 19, 2012, and a notice of appeal was filed on July 2, 2012. Appellant filed a timely motion for new trial, which was granted on August 6, 2012. See TEX. R. APP. P. 21.4(a), 26.2(a). The trial court clerk has forwarded a certified copy of the trial court's order granting the motion for new trial.

When the trial court grants a motion for new trial, it restores the case to its position before the former trial. TEX. R. APP. P. 21.9. Because there is no conviction to be appealed, we have no jurisdiction to consider appellant's appeal. *Waller v. State*, 931 S.W.2d 640, 643-44 (Tex.App.-Dallas 1996, no pet.).

Accordingly, we dismiss the appeal for want of jurisdiction.

Per Curiam

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