



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

No. 07-18-00061-CR

ALISHIA MORRIS, APPELLANT

V.

THE STATE OF TEXAS, APPELLEE

On Appeal from the 364th District Court
Lubbock County, Texas
Trial Court No. 2016-409,491, Honorable William R. Eichman II, Presiding

April 13, 2018

MEMORANDUM OPINION

Before **CAMPBELL** and **PIRTLE** and **PARKER, JJ.**

Appellant Alishia Morris, proceeding *pro se*, appeals the trial court's judgment finding her presently incompetent to stand trial and committing her to a mental health facility to restore competency. We dismiss the appeal for want of jurisdiction.

Appellant was indicted for aggravated assault causing bodily injury to a family member by use of a deadly weapon.¹ On February 21, 2018, the trial court issued an

¹ TEX. PENAL CODE ANN. § 22.02(b)(1) (West 2011) (first-degree felony).

“Agreed Judgment of Commitment Following Competency Exam Incompetent But Likely to Regain Competency” pursuant to article 46B.073(c) of the Texas Code of Criminal Procedure. According to the judgment, a suggestion that appellant may be incompetent to stand trial was raised, evidence of appellant’s incompetency was presented, and neither party opposed a finding of incompetency. See TEX. CODE CRIM. PROC. ANN. art. 46B.004 (West Supp. 2017), 46B.005(c) (West 2006), 46B.054 (West 2006). The trial court found appellant presently incompetent to stand trial and ordered her committed to a maximum security unit of a mental health facility for competency restoration services for a period not to exceed 120 days. See *id.* at 46B.073(c) (West Supp. 2017), 17.032(a)(8) (West Supp. 2017). Appellant timely filed this appeal.

Generally, we only have jurisdiction to consider an appeal by a criminal defendant where there has been a judgment of conviction. *McKown v. State*, 915 S.W.2d 160, 161 (Tex. App.—Fort Worth 1996, no pet.) (per curiam). We do not have jurisdiction to review interlocutory orders, or other orders, unless that jurisdiction has been expressly granted by law. See *Ragston v. State*, 424 S.W.3d 49, 52 (Tex. Crim. App. 2014); *Abbott v. State*, 271 S.W.3d 694, 696–97 (Tex. Crim. App. 2008).

The trial court’s judgment committing appellant to a mental health facility is not a judgment of conviction. Further, there is no statutory or constitutional provision allowing an interlocutory appeal from the judgment. See TEX. CODE CRIM. PROC. ANN. art. 46B.011 (West 2006) (neither the State nor the defendant is entitled to make an interlocutory appeal relating to a competency determination); *Queen v. State*, 212 S.W.3d 619, 622-23 (Tex. App.—Austin 2006, no pet.) (holding that an order committing a defendant for competency restoration is an interlocutory order and dismissing appeal for want of

jurisdiction).

Accordingly, we dismiss the appeal for want of jurisdiction.²

Per Curiam

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² Relief from a judgment of commitment for restoration of competency may be sought by filing an application for writ of habeas corpus in the trial court. See *Ex parte Schmidt*, Nos. 09-11-00350-CR, 09-11-00351-CR, 2011 Tex. App. LEXIS 8884 (Tex. App.—Beaumont Nov. 9, 2011, no pet.) (mem. op., not designated for publication); TEX. CODE CRIM. PROC. ANN. art. 11.01 (West 2015) (explaining that a writ of habeas corpus functions as a remedy for restraint on a person's liberty).