



**In The
Court of Appeals
Sixth Appellate District of Texas at Texarkana**

No. 06-08-00127-CR

RICHARD KING, Appellant

V.

THE STATE OF TEXAS, Appellee

On Appeal from the Sixth Judicial District Court
Lamar County, Texas
Trial Court No. 16606 HC-7

Before Morriss, C.J., Carter and Moseley, JJ.
Memorandum Opinion by Chief Justice Morriss

MEMORANDUM OPINION

Richard King has filed an attempted interlocutory appeal from an order by an appointed judge denying his motion to recuse the sitting judge in the prosecution against him.

The procedures for recusal of judges set out in the Texas Rules of Civil Procedure apply in criminal cases. *De Leon v. Aguilar*, 127 S.W.3d 1 (Tex. Crim. App. 2004); *Arnold v. State*, 853 S.W.2d 543, 544 (Tex. Crim. App. 1993) (holding Rule 18a applicable to criminal cases).¹

As a general rule, an appellate court may consider appeals by criminal defendants only after conviction. *See Ex parte Shumake*, 953 S.W.2d 842, 844 (Tex. App.—Austin 1997, no pet.). Intermediate appellate courts have no jurisdiction to review interlocutory orders absent express authority. *See* TEX. R. APP. P. 25.2(b)(2); *Ex parte Apolinar*, 820 S.W.2d 792, 794 (Tex. Crim. App. 1991); *McKown v. State*, 915 S.W.2d 160, 161 (Tex. App.—Fort Worth 1996, no pet.).

In this case, we have no authority to consider such an interlocutory appeal, and Rule 18a(f) of the Texas Rules of Civil Procedure states that a denial of the motion may be reviewed by appeal from the final judgment. *See* TEX. R. CIV. P. 18a(f). We do not have jurisdiction to review the propriety of a denial of a motion to recuse via interlocutory appeal. *See* TEX. R. CIV. P. 18a(f); *Rio Grande Valley Gas Co. v. City of Pharr*, 962 S.W.2d 631, 638 (Tex. App.—Corpus Christi 1997, writ dismiss'd w.o.j.).

¹The refusal of a defendant's motion to disqualify is reviewable only for abuse of discretion. TEX. R. CIV. P. 18a(f); *Wesbrook v. State*, 29 S.W.3d 103, 120 (Tex. Crim. App. 2000).

We dismiss the appeal for want of jurisdiction.

Josh R. Morriss, III
Chief Justice

Date Submitted: June 30, 2008
Date Decided: July 1, 2008

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