



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

No. 06-15-00228-CR

NATHAN LEE BURNETT, Appellant

V.

THE STATE OF TEXAS, Appellee

On Appeal from the 402nd District Court
Wood County, Texas
Trial Court No. 16,307-2000

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

MEMORANDUM OPINION

In accord with the terms of a plea agreement, Nathan Lee Burnett pled guilty to the charge of aggravated sexual assault of a child on October 19, 2000. On that same date, the trial court accepted that plea, but deferred the adjudication of Burnett's guilt and placed him on ten years' deferred adjudication community supervision. Between October 19, 2000, and September 15, 2015, the conditions of Burnett's community supervision were modified several times. On September 16, 2015, Burnett filed a pleading titled "Motion for Termination of Deferred Adjudication," which was actually a motion seeking the termination of Burnett's deferred adjudication community supervision. The trial court signed and entered a written order on November 19, 2015, denying Burnett's motion. On December 15, 2015, Burnett filed both a motion seeking a new trial and a notice of appeal from the trial court's November 19 order.

In the State of Texas, a party may appeal only that which the Texas Legislature has authorized. *Galitz v. State*, 617 S.W.2d 949, 951 (Tex. Crim. App. 1981). In the absence of legislation authorizing an appeal, appellate courts lack jurisdiction to act. *Id.* Generally speaking, in the criminal context, the Texas Legislature has only authorized appeals by criminal defendants from written judgments of conviction. *See Gutierrez v. State*, 307 S.W.3d 318, 321 (Tex. Crim. App. 2010); *Ex parte Shumake*, 953 S.W.2d 842, 844 (Tex. App.—Austin 1997, no pet.). Specific to cases resulting in community supervision, Article 42.12, Section 23(b) of the Texas Code of Criminal Procedure "provides that one can appeal: (1) an original judgment placing the defendant on probation at the time that probation is imposed, and (2) . . . a subsequent revocation of that probation. Nowhere has the Legislature provided for the appeal of an order denying early

termination.” *Dwyer v. State*, No. 08-01-00004-CR, 2002 WL 27103, at *2 (Tex. App.—El Paso Jan. 10, 2002, pet. dismiss’d) (not designated for publication);¹ see TEX. CODE CRIM. PROC. ANN. art. 42.12, § 23(b) (West Supp. 2015).

By letter dated January 22, 2016, we notified Burnett of this potential defect in our jurisdiction and afforded him the opportunity to respond on or before February 1, 2016. No response has been received to date. As the trial court’s order denying Burnett’s motion for termination of deferred adjudication is not an appealable order, we lack jurisdiction to hear this appeal.

We dismiss this appeal for want of jurisdiction.

Bailey C. Moseley
Justice

Date Submitted: February 9, 2016
Date Decided: February 10, 2016

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¹Although unpublished cases have no precedential value, we may take guidance from them “as an aid in developing reasoning that may be employed.” *Carrillo v. State*, 98 S.W.3d 789, 794 (Tex. App.—Amarillo 2003, pet. dismiss’d).