

**TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN**

---

---

**NO. 03-15-00616-CR  
NO. 03-15-00620-CR**

---

---

**The State of Texas, Appellant**

**v.**

**Dennis Davis, Appellee**

---

---

**FROM THE DISTRICT COURT OF TRAVIS COUNTY, 167TH JUDICIAL DISTRICT  
NO. D-1-DC-09-900185, HONORABLE P. DAVID WAHLBERG, JUDGE PRESIDING**

---

---

**MEMORANDUM OPINION**

**PER CURIAM**

The State of Texas filed a motion to consolidate its two appeals in the above-referenced causes. In cause number 03-15-00616-CR, the State referenced its intent to appeal the district court's September 10, 2015 findings of fact and conclusions of law regarding Davis's motion to set aside the indictment, which were attached to the notice of appeal.<sup>1</sup> In cause number 03-15-00620-CR, the State appealed the district court's September 9, 2015 order setting aside Davis's indictment for violation of his constitutional right to a speedy trial.

Davis filed a motion to dismiss in both causes, contending that the court's findings and conclusions after setting aside the indictment did not constitute an appealable order and that dismissal of the first appeal, not consolidation with the later-filed appeal, is appropriate.

---

<sup>1</sup> That notice also made conflicting reference to the court's order dismissing the indictment.

*See* Tex. Code Crim. Proc. art. 44.01 (listing orders from which State may appeal in criminal case).

We agree.

Accordingly, the Court denies the State's motion to consolidate these appeals and grants in part Davis's motions to dismiss these appeals. The State's appeal in cause number 03-15-00616-CR is dismissed, and its appeal in cause number 03-15-00620-CR remains pending.<sup>2</sup>

Before Chief Justice Rose, Justices Pemberton and Field

03-15-00616-CR      Dismissed on Appellee's Motion

03-15-00620-CR      Remains pending

Filed: November 19, 2015

Do Not Publish

---

<sup>2</sup> Davis's request to strike the second notice of appeal because it was not filed as an "amended" notice of appeal is denied.