

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-16-00859-CR

Ex parte Augustine Valero

**FROM THE DISTRICT COURT OF COMAL COUNTY, 207TH JUDICIAL DISTRICT
NO. C2016-1096X, THE HONORABLE GARY L. STEEL, JUDGE PRESIDING**

ORDER AND MEMORANDUM OPINION

PER CURIAM

Appellant Augustine Valero filed a notice of appeal in this Court giving written notice of appeal “from the order denying release issued on November 10, 2016.”

The clerk’s record filed in this cause contains appellant’s pretrial application for writ of habeas corpus seeking release pursuant to Article 17.151 of the Texas Code of Criminal Procedure and a judge’s docket sheet with a notation indicating that on November 10, 2016, the court heard and denied the habeas application. In addition, the reporter’s record from the hearing held on the application for writ of habeas corpus contains an oral ruling denying release. However, in a supplemental clerk’s record, the clerk informs this Court that, “There is no order denying release in the case file, only a Judges [sic] Docket Sheet . . . noting denied [sic] from the relating case of CR2016-814.”

In criminal cases, this Court has jurisdiction to consider appeals from the entry of an appealable order. *See* Tex. R. App. P. 25.2; Tex. Code Crim. Proc. art. 44.02; *see also* Tex. R. App.

P. 26.2(a)(1). However, there must be a written, signed order from which to appeal. *See State v. Sanavongxay*, 407 S.W.3d 252, 258–59 (Tex. Crim. App. 2012) (noting that “our precedent requires that an order be in writing”); *see also State v. Rosenbaum*, 818 S.W.2d 398, 401–02 (Tex. Crim. App. 1991) (holding that trial court “enters” order for purposes of appellate timetable when judge signs order). Accordingly, we abate this cause and remand it to the trial court for entry of a signed order on appellant’s pretrial application for writ of habeas corpus. *See Tex. R. App. P. 44.4(b)* (requiring appellate court to direct trial court to correct remediable error that prevents proper presentation of appeal). Once entered, the signed order shall be included in a supplemental clerk’s record and filed with this Court no later than March 30, 2017.

It is so ordered on this the 28th day of February, 2017.

Before Justices Puryear, Pemberton, and Goodwin

Abated and Remanded

Filed: February 28, 2017

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