



NUMBER 13-11-00567-CR

COURT OF APPEALS

THIRTEENTH DISTRICT OF TEXAS

CORPUS CHRISTI - EDINBURG

ANTHONY SPENCER,

Appellant,

v.

THE STATE OF TEXAS,

Appellee.

**On Appeal from the County Court at Law No. 5
of Nueces County, Texas.**

MEMORANDUM OPINION

**Before Chief Justice Valdez and Justices Garza and Vela
Memorandum Opinion Per Curiam**

Appellant, Anthony Spencer, pro se, filed a notice of appeal on August 23, 2011, and September 1, 2011, from an order granting the State's application for a writ of procedendo on April 29, 2011. On September 8, 2011, the Clerk of this Court notified appellant that it appeared that the order from which the appeal was taken was not an

appealable order, that the appeal had not been timely perfected, and requested correction of these defects within ten days or the appeal would be dismissed. Appellant responded that the appeal is timely and that the writ of procedendo was a final judgment.

A defendant may appeal to a court of appeals if he is convicted in a municipal court of record only if “the fine assessed against the defendant [in municipal court] exceeds \$100 and if the judgment is affirmed” by the county court. TEX. GOV’T CODE ANN. § 30.00027(a) (Vernon 2004). In this case the order of the county court was that the appeal be abated, dismissed, and remanded to the municipal court. It, therefore, appears that because the judgment was not affirmed by the trial court, this Court does not have jurisdiction to hear the appeal as the statutory requirements of Section 30.00027(a) of the Texas Government Code have not been satisfied.

The Court is of the opinion that there is not an appealable order and this Court lacks jurisdiction over the matters herein. Accordingly, this appeal is DISMISSED for lack of jurisdiction.

PER CURIAM

Do not publish. See TEX. R. APP. P. 47.2(b).

Delivered and filed the
29th day of December, 2011.