



**NUMBER 13-17-00151-CR**

**COURT OF APPEALS**

**THIRTEENTH DISTRICT OF TEXAS**

**CORPUS CHRISTI - EDINBURG**

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**JAMES GRIFFIN,**

**Appellant,**

**v.**

**THE STATE OF TEXAS,**

**Appellee.**

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**On appeal from the 24th District Court  
of De Witt County, Texas.**

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**MEMORANDUM OPINION**

**Before Chief Justice Valdez and Justices Rodriguez and Hinojosa  
Memorandum Opinion by Chief Justice Valdez**

Appellant James Griffin, proceeding pro se, filed a notice of appeal on March 15, 2017. Appellant sought to appeal the denial of his motion for forensic DNA testing under Chapter 64 of the Texas Code of Criminal Procedure. Appellant stated that the “[d]enial of his motion is assumed to be denied on February 15, 2017 when the Court of Criminal

Appeals denied his habeas application seeking . . . an out-of-time appeal.”

On March 20, 2017, the Clerk of this Court notified appellant that it appeared that there was no final, appealable order and requested correction of this defect within ten days. The Clerk notified appellant that if this defect were not cured, the appeal would be subject to dismissal. In response, the appellant filed a motion requesting the trial court to send this Court the order showing the denial of appellant’s request for DNA testing. The District Clerk has notified this Court that it received an application for writ of habeas corpus and a motion for forensic DNA testing on November 30, 2016; however, the trial court record in this case does not include a ruling on appellant’s motion for DNA testing.

Generally, a state appellate court only has jurisdiction to consider an appeal by a criminal defendant where there has been a final judgment of conviction. *Workman v. State*, 170 Tex. Crim. 621, 343 S.W.2d 446, 447 (1961); *McKown v. State*, 915 S.W.2d 160, 161 (Tex. App.—Fort Worth 1996, no pet.). Exceptions to the general rule include: (1) certain appeals while on deferred adjudication community supervision, *Kirk v. State*, 942 S.W.2d 624, 625 (Tex. Crim. App. 1997); (2) appeals from the denial of a motion to reduce bond, TEX. R. APP. P. 31.1; *McKown*, 915 S.W.2d at 161; and (3) certain appeals from the denial of habeas corpus relief, *Wright v. State*, 969 S.W.2d 588, 589 (Tex. App.—Dallas 1998, no pet.); *McKown*, 915 S.W.2d at 161. Appeals may similarly be taken from orders under Chapter 64 of the Texas Code of Criminal procedure. See TEX. CODE CRIM. PROC. ANN. art. 64.05 (West, Westlaw through 2015 R.S.). However, a court of appeals has no jurisdiction over an appeal absent a written judgment or order. See, e.g., *State v. Sanavongxay*, 331 S.W.3d 788, 789 (Tex. App.—Fort Worth 2010), *aff’d*, 407 S.W.3d 252 (Tex. Crim. App. 2012); *Nikrasch v. State*, 698 S.W.2d 443, 450 (Tex. App.—

Dallas 1985, no pet.)

The Court, having examined and fully considered the notice of appeal and the matters before the Court, is of the opinion that this Court lacks jurisdiction over the matters herein because the trial court has not signed a written order memorializing his ruling on the merits of appellant's motion. Because there is no appealable order, we DISMISS the appeal for want of jurisdiction. All pending motions, if any, are likewise DISMISSED.

**/s/ Rogelio Valdez** \_\_\_\_\_  
ROGELIO VALDEZ  
Chief Justice

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

Delivered and filed the  
20th day of April, 2017.