



NUMBER 13-17-00299-CR

COURT OF APPEALS

THIRTEENTH DISTRICT OF TEXAS

CORPUS CHRISTI - EDINBURG

LIONEL LEE LANE,

Appellant,

v.

THE STATE OF TEXAS,

Appellee.

**On appeal from the 377th District Court
of Victoria County, Texas.**

MEMORANDUM OPINION

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

Appellant Lionel Lee Lane attempts to appeal a May 1, 2017 order denying his motion for shock probation. We dismiss the appeal for want of jurisdiction.

Appellant was convicted of assault and sentence was imposed on January 25, 2017. He did not file an appeal from the judgment of conviction. On April 21, 2017, appellant filed a motion for shock probation which was denied by the trial court on May 1, 2017. Appellant filed a notice of appeal on June 8, 2017. On June 13, 2017, the Clerk

of this Court notified appellant that it appeared that the order from which the appeal was taken was not an appealable order, and requested correction of this defect within ten days or the appeal would be dismissed. Appellant has not filed a response to this Court's directive.

Neither the United States nor Texas constitution guarantees the right to appeal state criminal convictions. *Griffin v. State*, 145 S.W.3d 645, 646 (Tex. Crim. App. 2004). The Texas Constitution provides the courts of appeals with appellate jurisdiction “under such restrictions and regulations as may be prescribed by law.” TEX. CONST. art. V, § 6(a). Thus, a party may generally appeal only those cases authorized by the Legislature for appeal. See *Olowosuko v. State*, 826 S.W.2d 940, 941 (Tex. Crim. App. 1992) (“It is axiomatic that a party may appeal only that which the Legislature has authorized”). “The standard for determining jurisdiction is not whether the appeal is precluded by law, but whether the appeal is authorized by law.” *Abbott v. State*, 271 S.W.3d 694, 696–97 (Tex. Crim. App. 2008). “A defendant in any criminal action has the right of appeal under the rules hereinafter prescribed” TEX.CODE CRIM. PROC. ANN. art. 44.02 (West, Westlaw through Ch. 49, 2017 R.S.); see *Griffin*, 145 S.W.3d at 646.

No statute or rule authorizes our appellate review of an order denying a post-conviction motion for shock probation under Texas Code of Criminal Procedure article 42.12, section 6. See TEX. CODE CRIM. PROC. ANN. art. 42.12, § 6 (West, Westlaw through Ch. 49, 2017 R.S.); *Houlihan v. State*, 579 S.W.2d 213, 215–16 (Tex. Crim. App. 1979); *Basaldua v. State*, 558 S.W.2d 2, 5 (Tex. Crim. App. 1977); *Pippin v. State*, 271 S.W.3d 861, 863 (Tex. App.—Amarillo 2008, no pet.); *Zepeda v. State*, 993 S.W.2d 167 (Tex. App.—San Antonio 1999, pet. refused) (per curiam). We therefore lack jurisdiction over this attempted appeal.

Appellant did not appeal from the trial court's final judgment of conviction. Because there is no statutory authority for appealing an order denying shock probation, we lack jurisdiction. See *Houlihan*, 579 S.W.2d at 215–16; *Basaldua*, 558 S.W.2d at 5; *Pippin*, 271 S.W.3d at 863. Accordingly, the appeal is hereby DISMISSED FOR WANT OF JURISDICTION. See TEX. R. APP. P. 42.3(a).

/s/ Rogelio Valdez

ROGELIO VALDEZ

Chief Justice

Do not publish.

TEX. R. APP. P. 47.2(b).

Delivered and filed the
13th day of July, 2017.