

**NO. 12-15-00082-CR**

**IN THE COURT OF APPEALS**

**TWELFTH COURT OF APPEALS DISTRICT**

**TYLER, TEXAS**

*DAVID MARK DAVIS, II,  
APPELLANT*

§ *APPEAL FROM THE*

*V.*

§ *COUNTY COURT AT LAW NO. 1*

*THE STATE OF TEXAS,  
APPELLEE*

§ *ANGELINA COUNTY, TEXAS*

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***MEMORANDUM OPINION***

David Mark Davis, II attempts to appeal his conviction for speeding, for which he was assessed a fine of one hundred dollars. Article 4.03 of the code of criminal procedure determines our jurisdiction in this matter. It provides as follows:

The Courts of Appeals shall have appellate jurisdiction coextensive with the limits of their respective districts in all criminal cases except those in which the death penalty has been assessed. This Article shall not be so construed as to embrace any case which has been appealed from any inferior court to the county court, the county criminal court, or county court at law, in which the fine imposed or affirmed by the county court, the county criminal court or county court at law does not exceed one hundred dollars, unless the sole issue is the constitutionality of the statute or ordinance on which the conviction is based.

TEX. CODE CRIM. PROC. ANN. art. 4.03 (West 2005). Appellant appealed from a municipal court to a county court at law. The county court at law imposed a fine that does not exceed one hundred dollars. Appellant does not complain that the statute on which his conviction was based is unconstitutional. Therefore, we have no jurisdiction over this appeal.

Appellant nonetheless argues that we have jurisdiction over this appeal because the county court at law exercised original and not appellate jurisdiction in the trial of his case. He contends that this is because the citation filed in the municipal court is not identical to the one he received, and it therefore could not serve as a complaint under article 27.14(d) of the code of

criminal procedure.<sup>1</sup> Consequently, Appellant argues that the municipal court never obtained jurisdiction over his case, and his trial de novo in the county court at law was therefore an original trial over which we have appellate jurisdiction.<sup>2</sup> We disagree.

Regardless of whether the municipal court obtained jurisdiction over Appellant's case, this Court does not have jurisdiction over the appeal because the record shows that the case was appealed from the municipal court to the county court at law. *See id.* The record shows that Appellant received a citation and subsequently mailed his "Defendant's Original Appearance, Plea of No Contest, Notice of Appeal & Request for Setting of Appeal Bond" to the municipal court. The municipal court signed the document accepting the plea and another document approving Appellant's appeal bond. The case was then tried de novo on appeal in the county court at law.

Contrary to Appellant's argument, a convicting court's lack of jurisdiction over a case does not deprive an appellate court of jurisdiction over the case's appeal. *See Nix v. State*, 65 S.W.3d 664, 668 (Tex. Crim. App. 2001) (defendant may appeal case when original judgment is void); *see also Gallagher v. State*, 690 S.W.2d 587, 588 (Tex. Crim. App. 1985) (defendant may raise issue of convicting court's jurisdiction on appeal). Therefore, Appellant's contention that a lack of jurisdiction in the municipal court rendered his trial in the county court at law an original trial over which this Court has appellate jurisdiction is without merit. *See id.*; TEX. CODE CRIM. PROC. ANN. art. 4.03. Accordingly, we *dismiss* the appeal *for want of jurisdiction*. All *pending motions* are *overruled as moot*.

**BRIAN HOYLE**  
Justice

Opinion delivered April 29, 2016.

*Panel consisted of Worthen, C.J., Hoyle, J., and Neeley, J.*

(DO NOT PUBLISH)

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<sup>1</sup> "If written notice of an offense for which maximum possible punishment is by fine only or of a violation relating to the manner, time, and place of parking has been prepared, delivered, and filed with the court and a legible duplicate copy has been given to the defendant, the written notice serves as a complaint to which the defendant may plead 'guilty,' 'not guilty,' or 'nolo contendere.'" TEX. CODE CRIM. PROC. ANN. art. 27.14(d) (West Supp. 2015).

<sup>2</sup> In an appeal from a municipal court that is not a court of record, the trial is de novo. TEX. CODE CRIM. PROC. ANN. art. 45.042(b) (West 2006).



## COURT OF APPEALS

### TWELFTH COURT OF APPEALS DISTRICT OF TEXAS

#### JUDGMENT

APRIL 29, 2016

NO. 12-15-00082-CR

**DAVID MARK DAVIS, II,**  
Appellant  
V.  
**THE STATE OF TEXAS,**  
Appellee

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Appeal from the County Court at Law No 1  
of Angelina County, Texas (Tr.Ct.No. 15-0290)

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THIS CAUSE came to be heard on the appellate record and briefs filed herein; and the same being considered, it is the opinion of this court that this court is without jurisdiction of the appeal, and that the appeal should be dismissed.

It is therefore ORDERED, ADJUDGED and DECREED by this court that this appeal be, and the same is, hereby **dismissed for want of jurisdiction**; and that this decision be certified to the court below for observance.

Brian Hoyle, Justice.  
*Panel consisted of Worthen, C.J., Hoyle, J., and Neeley, J.*