

**NO. 12-16-00021-CR**

**IN THE COURT OF APPEALS**

**TWELFTH COURT OF APPEALS DISTRICT**

**TYLER, TEXAS**

***PHILLIP MARK BAILEY,***  
***APPELLANT***

§ ***APPEAL FROM THE 114TH***

***V.***

§ ***JUDICIAL DISTRICT COURT***

***THE STATE OF TEXAS,***  
***APPELLEE***

§ ***SMITH COUNTY, TEXAS***

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***MEMORANDUM OPINION***  
***PER CURIAM***

Appellant, Phillip Mark Bailey, appearing pro se, seeks to appeal from the trial court's denial of his motion for judgment nunc pro tunc. In criminal cases, unless expressly authorized by statute, appellate courts have jurisdiction to review only final judgments. *Abbott v. State*, 271 S.W.3d 694, 696–97 (Tex. Crim. App. 2008) (standard for determining jurisdiction is not whether appeal is precluded by law but whether appeal is authorized by law). No statute vests this court with jurisdiction over an appeal from an order denying a request for judgment nunc pro tunc. *Everett v. State*, 82 S.W.3d 735, 735 (Tex. App.—Waco 2002, pet. dism'd). Therefore, a postjudgment order denying a motion for judgment nunc pro tunc is not an appealable order.

On February 1, 2016, this court notified Appellant that the notice of appeal received in this appeal does not identify an appealable order. Appellant was warned that the appeal would be dismissed on or before March 2, 2016, unless the information in the appeal was amended to show the jurisdiction of this court. In response to our February 1, 2016 letter, Appellant filed an amended notice of appeal, but the amended notice does not show that this court has jurisdiction of the appeal. Accordingly, we *dismiss* this appeal *for want of jurisdiction*. See TEX. R. APP. P. 43.2(f).

Opinion delivered February 29, 2016.

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

(DO NOT PUBLISH)



## COURT OF APPEALS

### TWELFTH COURT OF APPEALS DISTRICT OF TEXAS

#### JUDGMENT

FEBRUARY 29, 2016

NO. 12-16-00021-CR

PHILLIP MARK BAILEY,  
Appellant  
V.  
THE STATE OF TEXAS,  
Appellee

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Appeal from the 114th District Court  
of Smith County, Texas (Tr.Ct.No. 114-0207-03)

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THIS CAUSE came to be heard on the appellate record; 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.

By *per curiam* opinion.  
*Panel consisted of Worthen, C.J., Hoyle, J. and Neeley, J.*

# THE STATE OF TEXAS M A N D A T E

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**TO THE 114TH DISTRICT COURT OF SMITH COUNTY, GREETING:**

Before our Court of Appeals for the 12th Court of Appeals District of Texas, on the 29 day of February, 2016, the cause upon appeal to revise or reverse your judgment between

**PHILLIP MARK BAILEY, Appellant**

**NO. 12-16-00021-CR; Trial Court No. 114-0207-03**

By *per curiam* opinion.

**THE STATE OF TEXAS, Appellee**

was determined; and therein our said Court made its order in these words:

**WHEREAS, WE COMMAND YOU** to observe the order of our said Court of Appeals for the Twelfth Court of Appeals District of Texas in this behalf, and in all things have it duly recognized, obeyed, and executed.

**WITNESS, THE HONORABLE JAMES T. WORTHEN**, Chief Justice of our Court of Appeals for the Twelfth Court of Appeals District, with the Seal thereof affixed, at the City of Tyler, this the xx day of February, 2016.



PAM ESTES, CLERK

By: Katrina McCleenny  
Chief Deputy Clerk