

Dismiss and Opinion Filed October 13, 2021



**In The
Court of Appeals
Fifth District of Texas at Dallas**

No. 05-21-00816-CR

**FRANK DONOVAN MCCOLLUM III, Appellant
V.
THE STATE OF TEXAS, Appellee**

**On Appeal from the Criminal District Court No. 3
Dallas County, Texas
Trial Court Cause No. F11-33471-J**

MEMORANDUM OPINION

Before Justices Osborne, Pedersen, III, and Reichek
Opinion by Justice Pedersen, III

On August 19, 2021, Frank Donovan McCollum III filed a notice of appeal to challenge the “Trial Court’s unlawful refusal to set aside a VOID JUDGMENT.” On September 22, 2021, he filed an amended notice of appeal noting that the trial court had refused to act on his July 14, 2021 motion and asking this Court to “give the unsigned order effect so as to be made final.” On October 8, 2021, the district clerk filed a clerk’s record which confirms there is no written signed order denying appellant’s motion. For the reasons that follow, we dismiss this appeal.

An appellate court has jurisdiction to determine an appeal only if the appeal is authorized by law. *Abbott v. State*, 271 S.W.3d 694, 696–97 (Tex. Crim. App.

2008). When the appellate court's jurisdiction is not legally invoked, the court's power to act is as absent as if it did not exist. *Olivo v. State*, 918 S.W.2d 519, 523 (Tex. Crim. App. 1996). Appellate courts may consider criminal appeals only after final conviction or the entry of a narrow set of appealable interlocutory orders. TEX. R. APP. P. 25.2(a)(2), 26.2(a)(1); *Wright v. State*, 969 S.W.2d 588, 589 (Tex. App.—Dallas 1998, no pet.).

To perfect an appeal in criminal cases when no motion for new trial is filed, a notice of appeal must be filed within thirty days after the day sentence is imposed, or after the day the trial court enters an appealable order. TEX. R. APP. P. 26.2(1). Texas courts have held that “entered” by the court means a signed, written order. *See State v. Sanavongxay*, 407 S.W.3d 252, 258 (Tex. Crim. App. 2012); *State v. Rosenbaum*, 818 S.W.2d 398, 401-02 (Tex. Crim. App. 1991); *Westbrook v. State*, 753 S.W.2d 158, 159–60 (Tex. Crim. App. 1988). When, as here, there is no written order from which to appeal, the court of appeals lacks jurisdiction over the appeal. *See Sanavongxay*, 407 S.W.3d at 259 (concluding that lack of written order leaves court of appeals without jurisdiction over appeal); *Nikrasch v. State*, 698 S.W.2d 443, 450 (Tex. App.—Dallas 1985, no pet.) (court of appeals has no jurisdiction over appeal absent written judgment or order). It follows that we lack jurisdiction to rule on any pending motions.

We dismiss this appeal for want of jurisdiction.

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

/Bill Pedersen, III//

BILL PEDERSEN, III
JUSTICE



**Court of Appeals
Fifth District of Texas at Dallas**

JUDGMENT

FRANK DONOVAN MCCOLLUM
III, Appellant

No. 05-21-00816-CR V.

THE STATE OF TEXAS, Appellee

On Appeal from the Criminal District
Court No. 3, Dallas County, Texas
Trial Court Cause No. F11-33471-J.
Opinion delivered by Justice
Pedersen, III. Justices Osborne and
Reichek participating.

Based on the Court's opinion of this date, we **DISMISS** this appeal.

Judgment entered this 13th day of October, 2021.