

APPENDIX

ORDERS AND OPINIONS OF THE C OURTS

OFFICIAL NOTICE FROM COURT OF CRIMINAL APPEALS OF TEXAS **FILE COPY**
P.O. BOX 12308, CAPITOL STATION, AUSTIN, TEXAS 78711

8/21/2019

SHEPPARD, WILFRED WARREN Tr. Ct. No. 73471

**03-19-00180-CR
PD-0553-19**

On this day, the Appellant's Pro Se motion for rehearing has been denied.

Deana Williamson, Clerk

WILFRED WARREN SHEPPARD
4908 LAKESHORE DR.
KILLEEN, TX 76543
* DELIVERED VIA E-MAIL *

OFFICIAL NOTICE FROM COURT OF CRIMINAL APPEALS OF TEXAS **FILE COPY**
P.O. BOX 12308, CAPITOL STATION, AUSTIN, TEXAS 78711

7/3/2019

COA No. 03-19-00180-CR

SHEPPARD, WILFRED WARREN Tr. Ct. No. 73471

PD-0553-19

On this day, the Appellant's Pro Se petition for discretionary review has been refused.

Deana Williamson, Clerk

WILFRED WARREN SHEPPARD
4908 LAKESHORE DR.
KILLEEN, TX 76543
* DELIVERED VIA E-MAIL *

OFFICIAL NOTICE FROM COURT OF CRIMINAL APPEALS OF TEXAS **FILE COPY**
P.O. BOX 12308, CAPITOL STATION, AUSTIN, TEXAS 78711

8/21/2019

SHEPPARD, WILFRED WARREN Tr. Ct. No. 2C14-01404

03-19-00267-CR

PD-0627-19

On this day, the Appellant's Pro Se motion for rehearing has been denied.

Deana Williamson, Clerk

WILFRED WARREN SHEPPARD
4908 LAKESHORE DRIVE
KILLEEN, TX 76543
* DELIVERED VIA E-MAIL *

OFFICIAL NOTICE FROM COURT OF CRIMINAL APPEALS OF TEXAS **FILE COPY**
P.O. BOX 12308, CAPITOL STATION, AUSTIN, TEXAS 78711

8/21/2019

03-19-00268-CR

SHEPPARD, WILFRED WARREN Tr. Ct. No. 2C14-02351

PD-0628-19

On this day, the Appellant's Pro Se motion for rehearing has been denied.

Deana Williamson, Clerk

WILFRED WARREN SHEPPARD
4908 LAKESHORE DRIVE
KILLEEN, TX 76543
* DELIVERED VIA E-MAIL *

OFFICIAL NOTICE FROM COURT OF CRIMINAL APPEALS OF TEXAS **FILE COPY**
P.O. BOX 12308, CAPITOL STATION, AUSTIN, TEXAS 78711

8/21/2019

03-19-00269-CR

SHEPPARD, WILFRED WARREN Tr. Ct. No. 2C14-01404

PD-0629-19

On this day, the Appellant's Pro Se motion for rehearing has been denied.

Deana Williamson, Clerk

3RD COURT OF APPEALS CLERK

JEFF KYLE

P O BOX 12547

AUSTIN, TX 78711

* DELIVERED VIA E-MAIL *

OFFICIAL NOTICE FROM COURT OF CRIMINAL APPEALS OF TEXAS **FILE COPY**
P.O. BOX 12308, CAPITOL STATION, AUSTIN, TEXAS 78711

7/24/2019

COA No. 03-19-00267-CR

SHEPPARD, WILFRED WARREN Tr. Ct. No. 2C14-01404

PD-0627-19

On this day, the Appellant's Pro Se petition for discretionary review has been refused.

Deana Williamson, Clerk

STATE PROSECUTING ATTORNEY
STACEY SOULE
P. O. BOX 13046
AUSTIN, TX 78711
* DELIVERED VIA E-MAIL *

OFFICIAL NOTICE FROM COURT OF CRIMINAL APPEALS OF TEXAS **FILE COPY**
P.O. BOX 12308, CAPITOL STATION, AUSTIN, TEXAS 78711

7/24/2019

COA No. 03-19-00268-CR

SHEPPARD, WILFRED WARREN Tr. Ct. No. 2C14-02351

PD-0628-19

On this day, the Appellant's Pro Se petition for discretionary review has been refused.

Deana Williamson, Clerk

WILFRED WARREN SHEPPARD
4908 LAKESHORE DRIVE
KILLEEN, TX 76543
* DELIVERED VIA E-MAIL *

OFFICIAL NOTICE FROM COURT OF CRIMINAL APPEALS OF TEXAS **FILE COPY**
P.O. BOX 12308, CAPITOL STATION, AUSTIN, TEXAS 78711

7/24/2019

COA No. 03-19-00269-CR

SHEPPARD, WILFRED WARREN Tr. Ct. No. 2C14-01404 PD-0629-19

On this day, the Appellant's Pro Se petition for discretionary review has been refused.

Deana Williamson, Clerk

WILFRED WARREN SHEPPARD
4908 LAKESHORE DRIVE
KILLEEN, TX 76543
* DELIVERED VIA E-MAIL *

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-19-00180-CR

Wilfred Warren Sheppard, Appellant

v.

The State of Texas, Appellee

**FROM THE 27TH DISTRICT COURT OF BELL COUNTY,
NO. 73471, THE HONORABLE JOHN GAUNTT, JUDGE PRESIDING**

MEMORANDUM OPINION

Appellant Wilfred Warren Sheppard filed a pro se pretrial notice of appeal of the trial court's oral order denying his pretrial motion to dismiss.¹ We lack jurisdiction over Sheppard's appeal for several reasons.

In criminal cases, this Court has jurisdiction to consider appeals from the entry of an appealable order. *See* Tex. R. App. P. 25.2; Tex. Code Crim. Proc. art. 44.02; *see also* Tex. R. App. P. 26.2(a)(1). However, there must be a written, signed order from which to appeal. *See State v. Sanavongxay*, 407 S.W.3d 252, 259 (Tex. Crim. App. 2012) (noting that "our precedent requires that an order be in writing" when discussing State's statutory right to appeal pretrial suppression order); *see also State v. Rosenbaum*, 818 S.W.2d 398, 401-02 (Tex. Crim. App. 1991) (holding that for purposes of appeal, trial court "enters" order when judge signs order). The record before us contains no written, signed order denying Sheppard's motion to

¹ The trial court's docket sheet reflects that a Faretta hearing has been held and that Sheppard is representing himself at trial.

dismiss; thus, there has been no entry of an appealable order. *See, e.g., Dekneef v. State*, No. 03-13-00699-CR, 2013 WL 6801261, at *1 (Tex. App.—Austin Dec. 20, 2013, no pet.)

Even if the trial court had signed an order, we find no authority for Sheppard to appeal the order. In Texas, appeals in a criminal case are permitted only when they are specifically authorized by statute. *State ex rel. Lykos v. Fine*, 330 S.W.3d 904, 915 (Tex. Crim. App. 2011); *see Bayless v. State*, 91 S.W.3d 801, 805 (Tex. Crim. App. 2002) (“[A] defendant’s right of appeal is a statutorily created right.”). The standard for determining whether an appellate court has jurisdiction to hear and determine a case “is not whether the appeal is precluded by law, but whether the appeal is authorized by law.” *Blanton v. State*, 369 S.W.3d 894, 902 (Tex. Crim. App. 2012) (quoting *Abbott v. State*, 271 S.W.3d 694, 696-97 (Tex. Crim. App. 2008)); *State ex rel. Lykos*, 330 S.W.3d at 915. Thus, a court of appeals does not have jurisdiction to review interlocutory orders unless that jurisdiction has been expressly granted by law. *Ex parte Apolinar*, 820 S.W.2d 792, 794 (Tex. Crim. App. 1991); *Ex parte Shumake*, 953 S.W.2d 842, 844 (Tex. App.—Austin 1997, no pet.). No such grant exists for a defendant’s direct appeal of an interlocutory order denying a pretrial motion to dismiss. *See, e.g., Ex parte Wiley*, 949 S.W.2d 3, 4 (Tex. App.—Fort Worth 1996, no writ) (dismissing appeal because “[t]here is no statute providing for interlocutory appeal of denial of a motion to dismiss”).

Finally, the trial-court certification in the record reflects that Sheppard has no right of appeal. We are required to dismiss an appeal “if a certification that shows the defendant has a right of appeal has not been made part of the record.” *See* Tex. R. App. P. 25.2(d); *Dears v. State*, 154 S.W.3d 610, 613 (Tex. Crim. App. 2005).

Accordingly, we dismiss the appeal for want of jurisdiction. *See* Tex. R. App. P. 25.2(a)(2), (d); *id.* R. 43.2 (f).

Jeff Rose, Chief Justice

Before Chief Justice Rose, Justices Kelly and Smith

Dismissed for Want of Jurisdiction

Filed: May 1, 2019

Do Not Publish

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

JUDGMENT RENDERED MAY 1, 2019

NO. 03-19-00180-CR

Wilfred Warren Sheppard, Appellant

v.

The State of Texas, Appellee

**APPEAL FROM THE 27TH DISTRICT COURT OF BELL COUNTY
BEFORE CHIEF JUSTICE ROSE, JUSTICES KELLY AND SMITH
DISMISSED FOR WANT OF JURISDICTION-- OPINION BY CHIEF JUSTICE ROSE**

Having reviewed the record, it appears that the Court lacks jurisdiction over this appeal. Therefore, the Court dismisses the appeal for want of jurisdiction. Because appellant is indigent and unable to pay costs, no adjudication of costs is made.

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

**NO. 03-19-00267-CR
NO. 03-19-00268-CR
NO. 03-19-00269-CR**

Wilfred Warren Sheppard, Appellant

v.

The State of Texas, Appellee

**FROM THE COUNTY COURT AT LAW NO. 2 OF BELL COUNTY,
NO. 2C14-01404, NO. 2C14-02351, & NO. 2C16-04640
THE HONORABLE JOHN MICHAEL MISCHTIAN, JUDGE PRESIDING**

MEMORANDUM OPINION

Appellant Wilfred Warren Sheppard filed pro se pretrial notices of appeal of the trial court's oral order denying his pretrial "Motion to Quash Indictment (Information)" filed in cause numbers 2C14-01404 and 2C14-02351 and his motion to sever cause number 2C16-04640.¹ (Although the motion to quash appears to have been filed in all three cause numbers, Sheppard's notices of appeal only challenge its denial in the two listed cause numbers.) We lack jurisdiction over Sheppard's appeal.

In criminal cases, this Court has jurisdiction to consider appeals from the entry of an appealable order. *See* Tex. R. App. P. 25.2; Tex. Code Crim. Proc. art. 44.02; *see also* Tex. R. App. P. 26.2(a)(1). However, there must be a written, signed order from which to appeal.

¹ The trial court's docket sheet reflects that a Faretta hearing has been held and that Sheppard is representing himself at trial.

See State v. Sanavongxay, 407 S.W.3d 252, 259 (Tex. Crim. App. 2012) (noting that “our precedent requires that an order be in writing” when discussing State’s statutory right to appeal pretrial suppression order); *see also State v. Rosenbaum*, 818 S.W.2d 398, 401-02 (Tex. Crim. App. 1991) (holding that for purposes of appeal, trial court “enters” order when judge signs order). The record before us contains no written, signed order denying Sheppard’s motion to quash or his motion to sever; thus, there has been no entry of an appealable order. *See, e.g., Dekneef v. State*, No. 03-13-00699-CR, 2013 WL 6801261, at *1 (Tex. App.—Austin Dec. 20, 2013, no pet.)

Even if the trial court had signed an order, we find no authority for Sheppard to appeal either type of order. In Texas, appeals in a criminal case are permitted only when they are specifically authorized by statute. *State ex rel. Lykos v. Fine*, 330 S.W.3d 904, 915 (Tex. Crim. App. 2011); *see Bayless v. State*, 91 S.W.3d 801, 805 (Tex. Crim. App. 2002) (“[A] defendant’s right of appeal is a statutorily created right.”). The standard for determining whether an appellate court has jurisdiction to hear and determine a case “is not whether the appeal is precluded by law, but whether the appeal is authorized by law.” *Blanton v. State*, 369 S.W.3d 894, 902 (Tex. Crim. App. 2012) (quoting *Abbott v. State*, 271 S.W.3d 694, 696-97 (Tex. Crim. App. 2008)); *State ex rel. Lykos*, 330 S.W.3d at 915. Thus, a court of appeals does not have jurisdiction to review interlocutory orders unless that jurisdiction has been expressly granted by law. *Ex parte Apolinar*, 820 S.W.2d 792, 794 (Tex. Crim. App. 1991); *Ex parte Shumake*, 953 S.W.2d 842, 844 (Tex. App.—Austin 1997, no pet.). No such grant exists for a defendant’s direct appeal of an interlocutory order denying a pretrial motion to quash or a pretrial motion to sever. *See, e.g., Ex parte Wiley*, 949 S.W.2d 3, 4 (Tex. App.—Fort Worth 1996, no writ)

(dismissing appeal because “[t]here is no statute providing for interlocutory appeal of denial of a motion to dismiss”).

Accordingly, we dismiss the appeal for want of jurisdiction. *See* Tex. R. App. P. 25.2(a)(2), (d); *id.* R. 43.2 (f).

Jeff Rose, Chief Justice

Before Chief Justice Rose, Justices Kelly and Smith

Dismissed for Want of Jurisdiction

Filed: May 24, 2019

Do Not Publish

JUDGE'S DOCKET

Date Filed 08 18 14

Offense Date 12 31 09

Cause Number 73471 - A		Type of Case AGG SEXUAL ASSAULT CHILD	
Style of Case		Attorneys	
THE STATE OF TEXAS		A Budget Military & Civil 100,000 - BOND 09/27/18	
VS.		BARNES, WILLIAM NELSON Prosecutor	
WILFRED WARREN SHEPPARD		FAULKNER, WADE N. Defendant	
IND: 10/15/14 CRT: 426		ARR: PT:	
Orders of Court			
Date of Orders	3/14/19		
JUDGE:	GIAUOTT		
COURT REPORTER:	H. WOLFE		
STATES ATTORNEY:	D. NELSON		
DEFENSE ATTORNEY:	Pro-SV		
OFFENSE CONVICTED:	A11 ADMITTED A12 + 13 ADMITTED		
DEGREE:	A14 NOT ADMITTED A9 ADMITTED S1 ADMITTED		
DEADLY WEAPON FINDING:	A56 + 7 NOT ADMITTED BUT THEY ARE A PART OF A8 WHICH WAS ADMITTED - A ARGUED HIS MOTION - STATE RESPONDED A'S MOTION TO DISMISS IS DENIED John Gault		

EXHIBIT A

A1 – Transcripts from sentencing hearing, Cause #72147(Criminal Mischief)

NOTE: All evidence entered at the hearing is unrelated to charge of criminal mischief cause no. 72147, it pertains to cause no. 73471 below, punishment decided on alleged facts not submitted and found true by a jury.

Alleyene v. United States, 570 U.S. 99, *United States v. Haymond*, 588 U.S. __ (2019)

A2 - Judges Docket-see punishment 9/19/16 / Judgment of Conviction 72147

A3 - Indictment Cause #72147

A4 - Notice of Sentencing Hearing Cause No. 72147 (Sept. 19, 2016)

Evidence unconstitutional trial held in No. 73471

A6 - Notice of Trial Cause No. 73471(Sept. 19, 2016)

A7 - Indictment: 73471

- Testimony proffered by alleged victim, entered and accepted by the trial court as evidence on , September 19, 2016: (see Sentencing hearing Transcripts above)NOTE: at this juncture, jeopardy has attached, I am being tried before a court of competent jurisdiction for cause no. 73471.

- Judge's Docket Sentencing Hearing, September 19, 2016(see A2 above)

A8- Art. 38.33, TCCP, Right Thumbprint Certification, ordered by the trial judge at sentencing hearing for cause no. 72147, disposing of Cause No. 73471, filed September 19, 2016 at 11:42 am: expressly stated on the document:

THIS IS TO CERTIFY THAT THE FINGERPRINTS ABOVE ARE THE ABOVE NAMED DEFENDANT'S FINGERPRINTS TAKEN AT THE TIME OF DISPOSITION OF THE ABOVE STYLED AND NUMBERED CAUSE. (73471).

Legal Definition: *Disposition*. Act of disposing; The final settlement of a matter. In Criminal Procedure, the sentencing or other final settlement of a criminal case.

: final arrangement: SETTLEMENT // the disposition of the case.

Source: Mariam –Webster since 1828

A9 – Appellant's Motion for Review of Reversible Error, filed December 5, 2016

A10 – Challenge to the Constitutionality

A11 – Attorney Appointment Order (previously assigned) No. 73471, Misdemeanor Charges

THE STATE OF TEXAS)

COUNTIES OF BELL-LAMPASAS)

I, GAYLA R. MAY, Official Court Reporter in and for the 27th District Court of Bell-Lampasas Counties, State of Texas, do hereby certify that the foregoing contains a true and correct transcription of all portions of evidence and other proceedings requested in writing by counsel for the parties to be included in this volume of the Reporter's Record, in the above-styled and numbered cause, all of which occurred in open court or in chambers and were reported by me.

I further certify that this Reporter's Record of the proceedings truly and correctly reflects the exhibits, if any, offered into evidence.

I further certify that the total cost for the preparation of this Reporter's Record is \$ _____ and was paid/will be paid by WILFRED SHEPPARD.

WITNESS MY OFFICIAL HAND this the 19TH day
of DECEMBER, 2016.

/S/ GAYLA R. MAY

GAYLA R. MAY, Texas CSR, RPR
Expiration Date: 12/31/17
Official Court Reporter, 27th D/C
Bell-Lampasas Counties, Texas
P. O. Box 747
Belton, TX 76513
254.933.5270 FAX 254.933.5977
gaylarmay@yahoo.com

APPELLANT'S EXHIBIT A1

03-16-00702-CR

6- 1

REPORTER'S RECORD
VOLUME 6 OF 7
TRIAL NO. 72,147
COA NO. 03-16-00702-CR

FILED IN
3rd COURT OF APPEALS
AUSTIN, TEXAS

12/20/2016 1:51:31 PM

THE STATE OF TEXAS

) IN THE DISTRICT COURT
) JEFFREY D. KYLE
) Clerk

VS.

) OF BELL COUNTY, TEXAS

WILFRED WARREN SHEPPARD

) 27TH JUDICIAL DISTRICT

PUNISHMENT AND SENTENCE

On the 19TH DAY of SEPTEMBER, 2016, the following
proceedings came on to be heard in the above-entitled and numbered
cause before the Honorable John Gauntt, judge presiding, held in
Belton, Bell County, Texas:

Proceedings reported by Computerized Machine Shorthand
Method.

GAYLA R. MAY, CSR, RPR
27TH JUDICIAL COURT OFFICIAL REPORTER
P. O. BOX 747
BELTON, TEXAS 76513
(254) 933-5270
FAX (254) 933-5977

GAYLA R. MAY, CSR, RPR
27TH JUDICIAL DISTRICT COURT

18-50288.447