

COURT OF APPEALS FOR THE THIRTEENTH DISTRICT OF TEXAS

Stacy Smith v. the State of Texas

Stacy Smith v. State · No. 13-26-00389-CR; 13-26-00390-CR · Decided June 18, 2026

SUMMARY

The Thirteenth Court of Appeals of Texas dismissed two criminal appeals brought by Stacy Smith for lack of jurisdiction. One appeal was dismissed because the trial court certified that Smith waived the right to appeal, and the other was dismissed because there was no final, appealable judgment after the case was consolidated with another cause.

CASE DETAILS

COURT	Court of Appeals for the Thirteenth District of Texas
WRITING FOR THE COURT	Jenny Cron; Chief Justice Tijerina; Justice Silva; Justice Cron
JURISDICTION	Thirteenth Court of Appeals of Texas
DECIDED	June 18, 2026
DOCKET	13-26-00389-CR; 13-26-00390-CR
DISPOSITION	dismissed
PROCEDURAL POSTURE	Appellant filed pro se notices of appeal from two Nueces County district-court causes. The court of appeals dismissed both appeals for lack of jurisdiction.
STANDARD OF REVIEW	The court independently determined whether it had appellate jurisdiction based on the trial-court certification, the existence of a final appealable judgment, and the applicable law.
PRECEDENTIAL VALUE	Unpublished, nonprecedential memorandum opinion
PARTIES	Stacy Smith v. The State of Texas

TOPICS

- appellate jurisdiction
- final judgment rule
- appellate procedure
- criminal procedure

PRACTICE AREAS

- Texas criminal appellate procedure
- appellate jurisdiction

QUESTIONS PRESENTED

1. Whether the court of appeals had jurisdiction over an appeal when the trial court's certification stated that the defendant waived the right of appeal.
2. Whether the court of appeals had jurisdiction over an appeal when there was no final, appealable judgment because the underlying cause had not been charged and had been consolidated with another cause.

HOLDINGS

1. An appeal must be dismissed for lack of jurisdiction when the trial court's certification does not show that the defendant has a right of appeal, including when the certification states that the defendant waived that right.
2. The court of appeals lacks jurisdiction over a criminal appeal when the underlying cause contains no final, appealable judgment, including when the cause was not charged because it was consolidated with another cause.

KEY QUOTATIONS

"We dismiss these appeals for lack of jurisdiction." (1)

"Based on counsel's review of the entire record and review of applicable law, [counsel] is of the opinion that [appellant] does not have a right to appeal because [appellant] has waived his right to appeal." (2)

"there is nothing to appeal in this case," (3)

"We dismiss each of these appeals for lack of jurisdiction." (4)

FACTUAL BACKGROUND

For trial-court cause number 26FC-0590C, the trial court certified that Smith waived his right of appeal, and appointed counsel agreed after reviewing the record and applicable law. For trial-court cause number 26FC-0591C, counsel informed the court that the cause was not charged because it had been consolidated with cause number 26FC-0590C and that there was nothing to appeal. The appellate court concluded that neither appeal was within its jurisdiction.

PROCEDURAL HISTORY

In appellate cause number 13-26-00389-CR, the trial court certified that Smith waived the right of appeal. After the appellate court ordered counsel to review the record, appointed counsel confirmed that Smith had no right to appeal because he had waived it. In appellate cause number 13-26-00390-CR, the clerk notified the parties that there appeared to be no final, appealable judgment; counsel responded that the cause had not been charged because it had been consolidated with another cause and that there was nothing to appeal. The court dismissed both appeals.

DISPOSITION

dismissed

CASES CITED

- Dears v. State, 154 S.W.3d 610, 613 (Tex. Crim. App. 2005)
- Vasquez v. State, 695 S.W.3d 556, 559 (Tex. App.—Houston [1st Dist.] 2023, pet. ref'd)
- Torres v. State, 493 S.W.3d 213, 215 (Tex. App.—San Antonio 2016, no pet.)
- Pena v. State, 323 S.W.3d 522, 525–26 (Tex. App.—Corpus Christi–Edinburg 2010, no pet.)
- Greenwell v. Ct. of Apps. for the Thirteenth Jud. Dist., 159 S.W.3d 645, 649 (Tex. Crim. App. 2005)
- Abbott v. State, 271 S.W.3d 694, 696–97 (Tex. Crim. App. 2008)
- Wilson v. State, 644 S.W.3d 761, 762 (Tex. App.—Austin 2022, no pet.)

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