

In The
Court of Appeals
Ninth District of Texas at Beaumont

NO. 09-20-00131-CR
NO. 09-20-00132-CR
NO. 09-20-00133-CR

DENIS JOHN GOSSELIN Appellant

V.

THE STATE OF TEXAS, Appellee

On Appeal from the 163rd District Court
Orange County, Texas
Trial Cause Nos. B930643-R, B930646-R & B930649-R

MEMORANDUM OPINION

On April 18, 1994, Denis John Gosselin was convicted of three charges of aggravated sexual assault. Gosselin filed a notice of appeal and a supplemental notice of appeal in April 2020, seeking to appeal the trial court's failure to rule on his motion for judgment nunc pro tunc.

On April 16, 2020, we informed the parties that a final judgment or appealable order had not been entered, requested a written reply from the parties identifying the

particular statute or rule authorizing an appeal, and warned that we would dismiss the appeal for lack of jurisdiction unless our jurisdiction over the appeal is established. Gosselin filed a response, in which he argues that (1) an order denying a motion for judgment nunc pro tunc is an appealable order, or, alternatively, (2) the trial court's failure to rule on his motion for judgment nunc pro tunc is an appealable order.

The right to appeal in criminal cases is conferred by statute, and a party may appeal only from a judgment of conviction or an interlocutory order as authorized by statute. *See* Tex. Code Crim. Proc. Ann. art. 44.02; *Ragston v. State*, 424 S.W.3d 49, 52 (Tex. Crim. App. 2014). Even if we were to accept Gosselin's argument that the trial court's failure to rule on his motion for judgment nunc pro tunc constitutes a denial of his motion, an order denying a motion seeking nunc pro tunc relief is generally not appealable. *Abbott v. State*, 271 S.W.3d 694, 697 (Tex. Crim. App. 2018) (holding that no rule, statute, or constitutional provision authorizes appeal of post-judgment order denying time-credit motion); *Sanchez v. State*, 112, S.W.3d 311, 312 (Tex. App.—Corpus Christi 2003, no pet.) (the appellate court lacked jurisdiction to review an order denying a request for judgment nunc pro tunc); *cf.* *Blanton v. State*, 369 S.W.3d 894, 904 (Tex. Crim. App. 2012) (holding that a

defendant had the right to appeal a judgment nunc pro tunc that was entered by the trial court).¹

The trial court has not signed an appealable order over which this Court has jurisdiction. Accordingly, for all these reasons, we dismiss the appeal for want of jurisdiction. *See* Tex. R. App. P. 37.1, 42.3.

APPEAL DISMISSED.

PER CURIAM

Submitted on June 30, 2020
Opinion Delivered July 1, 2020
Do Not Publish

Before McKeithen, C.J., Horton and Johnson, JJ.

¹ We express no opinion on whether Gosselin may be able to file a petition for mandamus relief or seek habeas corpus relief. *See Ex parte Florence*, 319 S.W.3d 695, 696 (Tex. Crim. App. 2010) (If a trial court denies a motion for judgment nunc pro tunc or refuses to respond, relief may be sought by filing a petition for writ of mandamus.). To the extent Gosselin is seeking post-conviction relief from a final felony conviction, the Texas Court of Criminal Appeals has exclusive appellate jurisdiction over such matters. *Ater v. Eighth Court of Appeals*, 802 S.W.2d 241, 243 (Tex. Crim. App. 1991); *see also* Tex. Code Crim. Proc. Ann. art. 11.07.