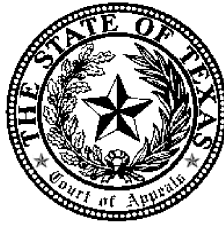


Dismissed and Opinion filed November 8, 2001.



In The
Fourteenth Court of Appeals

NO. 14-01-00142-CR

HAROLD T. CRUM, Appellant

V.

THE STATE OF TEXAS, Appellee

**On Appeal from the 228th District Court
Harris County, Texas
Trial Court Cause No. 652,117**

MEMORANDUM OPINION

After a jury trial, appellant was convicted of the offense of engaging in organized criminal activity, and on April 21, 1993, he was sentenced to ten years in the Institutional Division of the Texas Department of Criminal Justice, probated, and assessed a fine of \$10,000. This Court affirmed appellant's conviction and mandate issued on February 18, 1998. *See Crum v. State*, 946 S.W.2d 349 (Tex. App.—Houston [14th Dist.] pet ref'd).

On August 29, 2000, the State filed its First Amended Motion to Revoke Probation. A hearing on the motion was held on October 19, 2000. At the conclusion of the hearing, the trial court found sufficient evidence to support the allegations in the motion, and deferred

further action pending completion of a presentence report. On December 11, 2000, the trial court amended the conditions of appellant's probation to include 180 days incarceration in the Harris County Jail, and probation was continued. Appellant filed a notice of appeal the same day.

The State moves to dismiss the appeal for want of jurisdiction. The right to appeal is conferred by the legislature, and a party may appeal only that which the legislature has authorized. *Marin v. State*, 851 S.W.2d 275, 278 (Tex. Crim. App. 1993). There is no statutory basis for an appeal of an order modifying a term or condition of probation. *See Christopher v. State*, 7 S.W.3d 224, 225 (Tex. App.—Houston [1st Dist.] 1999, pet. ref'd). Case law has long held that an order modifying or refusing to modify probation is not subject to appeal. *See Basaldua v. State*, 558 S.W.2d 2, 5 (Tex. Crim. App. 1977); *Perez v. State*, 938 S.W.2d 761, 762-63 (Tex. App.—Austin 1997, pet. ref'd); *Eaden v. State* 901 S.W.2d 535, 536 (Tex. App.—El Paso 1995, no pet.). Some courts have considered complaints about a modification order only when a violation of the modified order forms the basis of a subsequent revocation. *See Elizondo v. State*, 966 S.W.2d 671, 672 (Tex. App.—San Antonio 1998, no pet.). In this case, however, appellant complains only that the trial court did not give appellant credit for the time served after his arrest and before entry of the modification order requiring 180 days incarceration. Therefore, we have no jurisdiction over the appeal.

Accordingly, the appeal is ordered dismissed.

PER CURIAM

Judgment rendered and Opinion filed November 8, 2001.

Panel consists of Chief Justice Brister, Justices Fowler and Seymore.

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