

**Fifth Circuit Court of Appeal
State of Louisiana**

No. 26-KA-35

STATE OF LOUISIANA

versus

CURTIS L MITCHELL

ON APPEAL FROM THE TWENTY-FOURTH JUDICIAL DISTRICT COURT
PARISH OF JEFFERSON, STATE OF LOUISIANA
NO. 23-3903, DIVISION "I"
HONORABLE NANCY A. MILLER, JUDGE PRESIDING

February 12, 2026

**MARC E. JOHNSON
JUDGE**

Panel composed of Judges Fredericka Homberg
Wicker, Marc E. Johnson, and John J. Molaison, Jr.

**MOTION GRANTED;
APPEAL DISMISSED; REMANDED**

**MEJ
FHW
JJM**

TRUE COPY

JALISA WALKER
DEPUTY CLERK

JOHNSON, J.

Defendant, Curtis L. Mitchell, seeks appellate review of the trial court's denial of his motion to quash. For the following reasons, we grant the motion to dismiss improper appeal, dismiss the appeal pursuant to Uniform Rules—Courts of Appeal, Rule 2-16.2(1), and remand the matter for further proceedings.

On August 24, 2023, Defendant was charged with aggravated flight from an officer, in violation of La. R.S. 14:108.1(C). Defendant was arraigned the next day and pleaded not guilty. After a hearing on September 22, 2025, in which Defendant indicated that he wanted to represent himself, the trial court allowed Defendant to do so. The court then ordered his attorney to remain as "shadow counsel." Defendant filed a *pro se* "Motion To Quash For Violations Of Constitutional Rights" on September 30, 2025, which was orally denied by the trial court in a hearing held on October 20, 2025.¹

A few days later, on October 24, 2025, Defendant filed a "Combined Filing: Motion For Interlocutory Appeal and Request For Order Setting Time For Assignment of Errors With Notice of Interlocutory Appeal and Certificate of Service (Pursuant to La. C.Cr.P. art. 914.1 & 844)", in which he claimed that the trial court lacked jurisdiction and erred in denying his motion to quash. The trial court granted the motion for appeal on October 27, 2025. On October 29, 2025, Defendant filed a "Motion to Dismiss for Lack of Subject Matter Jurisdiction" and a "Notice of Removal to Federal Court (Pursuant to 28 U.S.C. §§ 1441-1446, 1331, 1343, and 42 U.S.C. § 1983)," both of which were denied by the trial court on November 5, 2025. The instant appeal followed.

¹ Defendant sought review of the trial court's denial of his motion to quash in *State v. Mitchell*, 25-524 (La. App. 5 Cir. 11/3/25), 2025 WL 3080614. This Court denied Defendant's request for review, finding there was "nothing to review" because Defendant failed to provide the district court's written or oral ruling complained of with his application. This Court also noted that Defendant failed to provide "a copy of the pleading on which the ruling was founded, a copy of the pertinent court minutes, and the notice of intent and return date order," pursuant to Uniform Rules—Courts of Appeal, Rules 4-2, 4-3, and 4-5.

On January 28, 2026, the State of Louisiana filed a motion to dismiss improper appeal, arguing that Defendant's appeal was granted by the trial court in error. The State contends that review of the denial of Defendant's motion to quash is not an appealable judgment. We agree.

Only a final judgment or ruling is appealable. La. C.Cr.P. art. 912(A). A final judgment is one which puts an end to the proceedings. *State v. Lopez*, 17-507 (La. App. 5 Cir. 3/28/18), 243 So.3d 1269, 1270. La. C.Cr.P. art. 912 further states, in pertinent part:

(C) The judgments or rulings from which the defendant may appeal include but are not limited to:

- (1) A judgment which imposes sentence;
- (2) A ruling upon a motion by the state declaring the present insanity of the defendant[.]

"The denial of a motion to quash is not an appealable judgment as it is not a final judgment." *State v. Waddell*, 12-111 (La. App. 4 Cir. 10/24/12), 102 So.3d 1025, 1027. "[T]he proper procedural remedy to challenge [the denial of] a motion to quash is an application for a writ...rather than an appeal[.]" *Id.*

According to the record before us, no final judgment had been rendered in this matter prior to the granting of Defendant's motion for appeal by the trial court. Consequently, review of the trial court's denial of Defendant's motion to quash is not properly before us on appellate review at this juncture.

DECREE

Therefore, pursuant to Uniform Rules—Courts of Appeal, Rule 2-16.2(A)(1), we grant the State's motion to dismiss, dismiss the present appeal without prejudice, and remand the matter to the trial court for further proceedings.

MOTION GRANTED;
APPEAL DISMISSED; REMANDED

SUSAN M. CHEHARDY

CHIEF JUDGE

FREDERICKA H. WICKER
JUDE G. GRAVOIS
MARC E. JOHNSON
STEPHEN J. WINDHORST
JOHN J. MOLAISON, JR.
SCOTT U. SCHLEGEL
TIMOTHY S. MARCEL

JUDGES



CURTIS B. PURSELL

CLERK OF COURT

SUSAN S. BUCHHOLZ

CHIEF DEPUTY CLERK

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NOTICE OF JUDGMENT AND CERTIFICATE OF DELIVERY

I CERTIFY THAT A COPY OF THE OPINION IN THE BELOW-NUMBERED MATTER HAS BEEN DELIVERED
IN ACCORDANCE WITH **UNIFORM RULES - COURT OF APPEAL, RULE 2-16.4 AND 2-16.5** THIS DAY

FEBRUARY 12, 2026 TO THE TRIAL JUDGE, CLERK OF COURT, COUNSEL OF RECORD AND ALL PARTIES
NOT REPRESENTED BY COUNSEL, AS LISTED BELOW:

CURTIS B. PURSELL
CLERK OF COURT

26-KA-35

E-NOTIFIED

24TH JUDICIAL DISTRICT COURT (CLERK)

HONORABLE NANCY A. MILLER (DISTRICT JUDGE)

MILES SWANSON (APPELLANT)

DARREN A. ALLEMAND (APPELLEE)

THOMAS J. BUTLER (APPELLEE)

HONORABLE PAUL D. CONNICK, JR.
(APPELLEE)

MAILED

CURTIS L. MITCHELL (APPELLANT)

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