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STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellant,

v

ZACHARY ALLEN POWERS,

Defendant-Appellee.

UNPUBLISHED
November 16, 2026
12:53 PM

No. 375145
Missaukee Circuit Court
LC No. 25-011344-AR

Before: O'BRIEN, P.J., and CAMERON and MALDONADO, JJ.

PER CURIAM.

The prosecution appeals by leave granted[1] the circuit court's order denying the prosecution's appeal of a district court's refusal to issue an arrest warrant for defendant, Zachary Allen Powers. When it denied the arrest warrant, the district court did not memorialize its decision in a writing signed by the court, leaving no judgment or order to appeal. The prosecution nevertheless filed an appeal as of right in the circuit court, which construed the appeal as of right as an application for leave to appeal and denied the application. But because there was no judgment or order to appeal, the circuit court should have simply dismissed the prosecution's appeal. We therefore remand this case to the circuit court to dismiss the prosecution's appeal.

I. BACKGROUND

Zachary shot and killed his brother, Brandon Powers. Zachary claimed that the shooting occurred when his firearm accidentally discharged while he was manipulating the "charging handle," but a forensic lab was unable to cause the firearm to discharge in the manner Zachary described. The lab was only able to fire the weapon by pulling the trigger. Because of this, and because Zachary had been drinking when the firearm discharged, the prosecution sought to charge Zachary with involuntary manslaughter for killing Brandon. A complaint and a request for an arrest warrant were accordingly submitted to the district court, but the court refused to issue the arrest

[1] *People v Powers*, unpublished order of the Court of Appeals, entered August 12, 2025 (Docket No. 375145).

warrant. No record was made of what occurred in the district court, however, and the district court did not issue a written order memorializing its denial of the arrest warrant.

The prosecution nevertheless sought to appeal the district court's refusal to issue the arrest warrant for Zachary, so it filed an appeal as of right in the circuit court. In response, the circuit court issued a show-cause order, asking the prosecution to address whether an appeal as of right was the proper vehicle for challenging the district court's refusal to issue an arrest warrant.

Following the show-cause hearing, the circuit court issued a written opinion and order in which it denied the prosecution's claim of appeal. The circuit court opined that the denial of an arrest warrant was not a final order that the prosecution could appeal as of right, but that the prosecution could appeal such a denial by leave. The court then construed the prosecution's appeal as of right as an application for leave to appeal and denied the application.

This appeal followed.

II. APPEALS TO CIRCUIT COURT

The prosecution contends that the circuit court erred by rejecting the prosecution's appeal as of right. We disagree, but we further conclude that the circuit court erred by construing the prosecution's appeal as of right as an application for leave to appeal and denying the application. We conclude that no appeal to the circuit court could lie in this case because the district court never entered a judgment or order.

Const 1963, art 6, § 13 provides that circuit courts have "appellate jurisdiction from all inferior courts and tribunals except as otherwise provided by law[.]" District courts are one such inferior court, and MCL 600.8342 outlines how an appeal to circuit court of a district court's ruling operates, stating in relevant part that "all appeals from final judgments shall be as of right and all other appeals shall be by application." MCL 600.8342(2).[2] MCR 7.103 reflects this, providing in relevant part that the circuit court has jurisdiction over an appeal as of right filed by an aggrieved party from "a final judgment or final order" of a district court, see MCR 7.103(A)(1), and that the circuit court may grant leave to appeal from "a judgment or order" of a district court when no appeal as of right exists, see MCR 7.103(B)(1)(a).

For an appeal from district court to circuit court to be available—whether by right or by leave granted—there must be a "judgment" or "order." While our court rules do not clearly define what constitutes a "judgment" or "order," MCR 2.602(A) states, "Except as provided in this rule and in MCR 2.603,[3] all judgments and orders must be in writing, signed by the court and dated with the date they are signed." That is, any "judgment" or "order" must be in writing and signed by the court. Here, the district court did not memorialize its purported denial of the arrest warrant

[2] MCL 600.8342(2) begins, "Except as provided in subsections (4) and (5)," but there is no Subsection (5) of the statute. It appears that 1994 PA 375 removed Subsection (2) of MCL 600.8342, making what were previously Subsections (4) and (5) now Subsections (3) and (4), but the current Subsection (2) was not amended to reflect this change.

[3] MCR 2.603 concerns defaults and default judgments.

in a writing signed by the court. Accordingly, there was no judgment or order from which the prosecution could appeal by right or through an application for leave to appeal, and the prosecution's appeal to the circuit court should have been dismissed with no further action taken. We therefore remand this matter to the circuit court to dismiss the prosecution's appeal.[4]

Remanded for dismissal. We do not retain jurisdiction.

/s/ Colleen A. O'Brien
/s/ Thomas C. Cameron
/s/ Allie Greenleaf Maldonado

[4] The district court's refusal or failure to issue a written judgment or order did not leave the prosecution without a means of challenging the district court's denial of the arrest warrant. The prosecution could have, for instance, filed a writ of superintending control in the circuit court asking that court to order the district court to enter a written judgment or order denying the arrest warrant so that the prosecution could appeal the order. The prosecution could also have filed a writ of superintending control in the circuit court asking that court to order the district court to issue the arrest warrant. See, e.g., *Wayne Co Prosecutor v Recorder's Court Judge*, 119 Mich App 159, 161; 326 NW2d 825 (1982) (discussing how the prosecution sought a writ of superintending control in the circuit court after the district court denied an arrest warrant); *City of Birmingham v 48th Dist Court Judge*, 76 Mich App 33, 36; 255 NW2d 760 (1977) (same). The prosecution could have also simply refiled the complaint and request for an arrest warrant. What the prosecution could not do was appeal a nonexistent judgment or order.