



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. PD-0270-17

GREGORY SCOTT, Appellant

v.

THE STATE OF TEXAS

**ON APPELLANT'S PETITION FOR DISCRETIONARY REVIEW
FROM THE FIRST COURT OF APPEALS
HARRIS COUNTY**

Per curiam.

OPINION

Appellant was convicted of aggravated robbery. The Court of Appeals dismissed his appeal for want of jurisdiction on the basis that his notice of appeal was not timely filed. *Scott v. State*, No. 01-16-00933-CR (Tex. App. — Houston [1st Dist.] Feb. 16, 2017) (not designated for publication). Appellant has filed a petition for discretionary review contending his trial counsel rendered ineffective assistance by failing to timely file a notice of appeal.

The record reflects that Appellant had absconded by September 30, 2016, and the jury issued its verdict and sentence *in absentia* on October 3, 2016. The trial court sentenced Appellant in person on November 1, 2016. His *pro se* notice of appeal was filed on November 14, 2016.

The Code of Criminal Procedure provides that sentence shall be pronounced in the defendant's presence, with certain exceptions that are not applicable to this case. See TEX. CODE CRIM. PROC. arts. 42.03 § 1(a), 42.14. If no motion for new trial is timely filed and no motion for extension of time is filed, the defendant's notice of appeal must be filed within 30 days after the day sentence is imposed or suspended in open court. TEX. R. APP. P. 26.2(a)(1), (2), 26.3. Therefore, Appellant's notice of appeal, filed within 30 days after November 1, 2016, is timely.

Based on the foregoing, the Court summarily grants the following ground on its own motion:

Appellant's notice of appeal was timely filed.

Further, the Court reverses the judgment of dismissal of the Court of Appeals, reinstates Appellant's appeal, and remands to the Court of Appeals for further proceedings consistent with this opinion.

Delivered June 28, 2017
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