

Dismissed and Opinion Filed February 12, 2015.



**In The
Court of Appeals
Fifth District of Texas at Dallas**

No. 05-15-00149-CR

**CHRISTOPHER RANDY PEREZ, Appellant
V.
THE STATE OF TEXAS, Appellee**

**On Appeal from the 296th Judicial District Court
Collin County, Texas
Trial Court Cause No. 296-80748-2014**

MEMORANDUM OPINION

Before Justices Lang, Stoddart, and Schenck
Opinion by Justice Stoddart

Christopher Randy Perez was convicted of aggravated assault with a deadly weapon and sentenced to ten years' imprisonment. Appellant filed a pro se motion for new trial on January 12, 2015 and a pro se notice of appeal on February 3, 2015. We conclude we lack jurisdiction over the appeal.

"Jurisdiction concerns the power of a court to hear and determine a case." *Olivo v. State*, 918 S.W.2d 519, 522 (Tex. Crim. App. 1996). The jurisdiction of an appellate court must be legally invoked, and, if not, the power of the court to act is as absent as if it did not exist. *See id.* at 523. To invoke this Court's jurisdiction, a party must file its notice of appeal within the time period provided by the rules of appellate procedure. *See id.* at 522; *see also Slaton v. State*, 981 S.W.2d 208, 210 (Tex. Crim. App. 1998) (per curiam).

Appellant was sentenced in open court on August 21, 2014. Therefore, to be timely, appellant's motion for new trial was due by Monday, September 22, 2014. *See* TEX. R. APP. P. 4.1(a), 21.4(a). Appellant's January 12, 2015 motion for new trial was not timely; thus it did not extend the time for filing appellant's notice of appeal. *See* TEX. R. APP. P. 26.2(a)(2) (time for filing notice of appeal extended by timely-filed motion for new trial). Absent a timely motion for new trial, appellant's notice of appeal was due by Monday, September 22, 2014. *See* TEX. R. APP. P. 4.1(a), 26.2(a)(1). Appellant's February 3, 2015 notice of appeal is untimely, leaving us without authority to take any action except to dismiss the appeal. *See Slaton*, 981 S.W.2d at 210; *Olivo*, 918 S.W.2d at 522–23.

We dismiss the appeal for want of jurisdiction.

/Craig Stoddart/

CRAIG STODDART
JUSTICE

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TEX. R. APP. P. 47
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**Court of Appeals
Fifth District of Texas at Dallas**

JUDGMENT

CHRISTOPHER RANDY PEREZ,
Appellant

No. 05-15-00149-CR V.

THE STATE OF TEXAS, Appellee

On Appeal from the 296th Judicial District
Court, Collin County, Texas
Trial Court Cause No. 296-80748-2014.
Opinion delivered by Justice Stoddart,
Justices Lang and Schenck participating.

Based on the Court's opinion of this date, we **DISMISS** the appeal for want of jurisdiction.

Judgment entered this 12th day of February, 2015.