

DISMISS; and Opinion Filed August 10, 2015.



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

**No. 05-15-00722-CR
No. 05-15-00723-CR
No. 05-15-00724-CR
No. 05-15-00725-CR
No. 05-15-00726-CR**

**TIMOTHY TEKELLA CARTY, Appellant
V.
THE STATE OF TEXAS, Appellee**

**On Appeal from the 194th Judicial District Court
Dallas County, Texas
Trial Court Cause Nos. F10-41485-M, F11-41083-M, F12-72294-M,
F15-52971-M, F15-52972-M**

MEMORANDUM OPINION

**Before Justices Bridges, Lang, and Schenck
Opinion by Justice Schenck**

Timothy Tekella Carty appeals his convictions for four burglary of a habitation offenses and one evading arrest or detention in a motor vehicle offense. For the reasons that follow, we conclude we have no jurisdiction over the appeals.

In cause no. 05-15-00725-CR, appellant pleaded guilty to burglary of a habitation offense. In cause no. 05-15-00726-CR, appellant pleaded guilty to evading arrest or detention in a motor vehicle offense. The guilty pleas were made pursuant to plea bargain agreements. The trial court followed the agreements and sentenced appellant to eighteen years' imprisonment on the burglary conviction and six years' imprisonment on the evading arrest or detention

conviction. Appellant waived his right to appeal as part of the plea bargain agreements. *See Blanco v. State*, 18 S.W.3d 218, 219–20 (Tex. Crim. App. 2000). The trial court certified that the cases involved plea bargains and appellant has no right to appeal. *See* TEX. R. APP. P. 25.2(a), (d); *Dears v. State*, 154 S.W.3d 610 (Tex. Crim. App. 2005). Accordingly, we lack jurisdiction over these appeals.

In cause nos. 05-15-00722-CR through 05-15-00724-CR, appellant was convicted of burglary of a habitation and was sentenced to ten years' imprisonment following the revocation of his community supervision. His sentences were imposed in open court on April 30, 2015. Appellant's motion for new trial and notice of appeal were filed-stamped on June 3, 2015. On June 29, 2015, we sent the parties a letter questioning our jurisdiction over the appeals. Specifically, we directed the parties to address the timeliness of his motion for new trial and notice of appeal.¹ Neither appellant nor the State responded. We conclude we lack jurisdiction over these appeals.

“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. “The standard to determine whether an appellate court has jurisdiction to hear and determine a case ‘is not whether the appeal is precluded by law, but whether the appeal is authorized by law.’” *Blanton v. State*, 369 S.W.3d 894, 902 (Tex. Crim. App. 2012) (quoting *Abbott v. State*, 271 S.W.3d 694, 696–97 (Tex. Crim. App. 2008)).

In cause nos. 05-15-00722-CR through 05-15-00724-CR, appellant was sentenced in open court on April 30, 2015. Therefore, to be timely, appellant's motion for new trial was due

¹ We also questioned our jurisdiction over the appeals in cause nos. 05-15-00725-CR and 05-15-00726-CR for the same reason. However, due to our disposition of these appeals, we do not address the timeliness of the notices of appeal.

by June 1, 2015. *See* TEX. R. APP. P. 4.6(a)(1), 21.4(a). Appellant’s motion for new trial is file-stamped June 3, 2015, and nothing on the document reflects that it was mailed on or before June 1, 2015. Absent a timely motion for new trial, appellant’s notice of appeal was due by June 1, 2015. *See* TEX. R. APP. P. 4.6(a), 26.2(a)(1). Appellant’s notice of appeal is also file-stamped June 3, 2015, and, again, nothing in the document reflects that it was mailed on or before June 1, 2015. Moreover, although appellant’s notice of appeal was filed within the fifteen-day period provided by rule 26.3, no extension motion was filed in this Court within that same fifteen-day period. *See* TEX. R. APP. P. 26.3(b); *Slaton v. State*, 981 S.W.2d 208, 210 (Tex. Crim. App. 1998) (per curiam). Accordingly, we lack jurisdiction over these appeals.

We dismiss the appeals for want of jurisdiction.

/David J. Schenck/

DAVID J. SCHENCK
JUSTICE

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

JUDGMENT

TIMOTHY TEKELLA CARTY, Appellant

No. 05-15-00722-CR V.

THE STATE OF TEXAS, Appellee

On Appeal from the 194th Judicial District
Court, Dallas County, Texas

Trial Court Cause No. F10-41485-M.

Opinion delivered by Justice Schenck,

Justices Bridges and Lang participating.

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

Judgment entered this 10th day of August, 2015.



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

JUDGMENT

TIMOTHY TEKELLA CARTY, Appellant

No. 05-15-00723-CR V.

THE STATE OF TEXAS, Appellee

On Appeal from the 194th Judicial District
Court, Dallas County, Texas

Trial Court Cause No. F11-41083-M.

Opinion delivered by Justice Schenck.

Justices Bridges and Lang participating.

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

Judgment entered this 10th day of August, 2015.



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

JUDGMENT

TIMOTHY TEKELLA CARTY, Appellant

No. 05-15-00724-CR V.

THE STATE OF TEXAS, Appellee

On Appeal from the 194th Judicial District
Court, Dallas County, Texas

Trial Court Cause No. F12-72294-M.

Opinion delivered by Justice Schenck,

Justices Bridges and Lang participating.

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

Judgment entered this 10th day of August, 2015.



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

JUDGMENT

TIMOTHY TEKELLA CARTY, Appellant

No. 05-15-00725-CR V.

THE STATE OF TEXAS, Appellee

On Appeal from the 194th Judicial District
Court, Dallas County, Texas

Trial Court Cause No. F15-52971-M.

Opinion delivered by Justice Schenck,

Justices Bridges and Lang participating.

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

Judgment entered this 10th day of August, 2015.



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

JUDGMENT

TIMOTHY TEKELLA CARTY, Appellant

No. 05-15-00726-CR V.

THE STATE OF TEXAS, Appellee

On Appeal from the 194th Judicial District
Court, Dallas County, Texas

Trial Court Cause No. F15-52972-M.

Opinion delivered by Justice Schenck,

Justices Bridges and Lang participating.

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

Judgment entered this 10th day of August, 2015.