

**DISMISS and Opinion Filed August 18, 2015.**



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

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**No. 05-15-00762-CV**

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**IN THE INTEREST OF R.W., K.W., AND K.W., CHILDREN**

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**On Appeal from the 304th Judicial District Court  
Dallas County, Texas  
Trial Court Cause No. JD-12-1043-W**

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**MEMORANDUM OPINION**

Before Justices Fillmore, Myers, and Evans  
Opinion by Justice Myers

In a letter dated July 22, 2015, the Court questioned its jurisdiction over the appeal. Specifically, it appears the notice of appeal was untimely. We instructed appellant to file a letter brief addressing our jurisdictional concern and gave appellee an opportunity to respond.

When a timely post-judgment motion extending the appellate timetable is filed, a notice of appeal is due ninety days after the date the judgment is signed. *See* TEX. R. APP. P. 26.1(a). A timely filed motion to reinstate under Texas Rule of Civil Procedure 165a will extend the appellate timetable. *See* TEX. R. APP. P. 26.1(a)(3). Without a timely filed notice of appeal, this Court lacks jurisdiction. *See* TEX. R. APP. P. 25.1(b).

The trial court signed the order of dismissal on February 6, 2015. Appellant filed a timely motion to reinstate pursuant to rule of civil procedure 165a on March 4, 2015. Accordingly, the notice of appeal was due on May 7, 2015, ninety days after the date the dismissal order was signed. Appellant filed a notice of appeal on June 18, 2015.

In her letter brief, appellant contends the appellate timetable began running on March 26, 2015, the date the trial court denied her motion to reinstate. Because she filed a timely request for findings of fact and conclusions of law pertaining to the trial court's March 26, 2015 order, she contends she had ninety days from March 26th to file her notice of appeal. We disagree. The deadline runs from the date the dismissal order is signed, not the date the trial court rules on a motion to reinstate. See TEX. R. APP. P. 26.1(a); *Brown Mechanical Services, Inc. v. Mountbatten Surety Co.*, 377 S.W.3d 40, 43 (Tex. App.—Houston [1st Dist.] 2012, no pet.).

Because appellant failed to timely file a notice of appeal, we dismiss the appeal for want of jurisdiction. See TEX. R. APP. P. 42.3(a).

/Lana Myers/  
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LANA MYERS  
JUSTICE

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

**JUDGMENT**

IN THE INTEREST OF R.W., K.W.,  
AND K.W., CHILDREN,

No. 05-15-00762-CV

On Appeal from the 304th Judicial District  
Court, Dallas County, Texas.  
Trial Court Cause No. JD-12-1043-W.  
Opinion delivered by Justice Myers.  
Justices Fillmore and Evans participating.

In accordance with this Court's opinion of this date, the appeal is **DISMISSED**.

It is **ORDERED** that appellee DALLAS COUNTY CHILD PROTECTIVE SERVICES UNIT OF THE TEXAS DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES recover its costs of this appeal from appellant MARGIE CLARK.

Judgment entered this 18th day of August, 2015.