

DISMISS and Opinion Filed July 26, 2023



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

No. 05-23-00204-CV

**KAZIM OLADOTUN OYENUGA, Appellant
V.
CHICAS DEVELOPMENT, LLC D/B/A PROSALUTEM, Appellee**

**On Appeal from the County Court at Law No. 2
Dallas County, Texas
Trial Court Cause No. CC-20-03378-B**

MEMORANDUM OPINION

Before Justices Pedersen, III, Garcia, and Kennedy
Opinion by Justice Garcia

We questioned our jurisdiction over this appeal from the trial court's judgment because it appeared the notice of appeal was untimely. As directed by this Court, the parties filed letter briefs addressing the jurisdictional issue.

When a party files a timely post-judgment motion extending the appellate timetable, a notice of appeal is due ninety days after the judgment is signed or, with an extension motion, fifteen days after the deadline. *See* TEX. R. APP. P. 26.1(a), 26.3. Without a timely filed notice of appeal, this Court lacks jurisdiction. *See Brashear v. Victoria Gardens of McKinney, L.L.C.*, 302 S.W.3d 542, 545 (Tex.

App.—Dallas 2009, no pet.) (op. on reh’g) (timely filing of notice of appeal jurisdictional).

The trial court signed the judgment on October 25, 2022. Because appellant filed a timely post-judgment motion extending the appellate timetable, the notice of appeal was due on January 23, 2023 or, with an extension motion, February 7, 2023. *See* TEX. R. APP. P. 26.1(a), 26.3. Appellant filed a notice of appeal on February 28, 2023, twenty-one days past the deadline.

In his letter brief, appellant acknowledges that the notice of appeal was untimely. However, he states that this Court “should exercise its discretionary authority to retain jurisdiction over this appeal in the interest of justice.” This Court has no discretionary authority to alter the time for perfecting an appeal in a civil case. *Id.* 2. Because the notice of appeal was filed twenty-one days past the deadline, we dismiss the appeal for want of jurisdiction. *See id.* 42.3(a).

/Dennise Garcia/
DENNISE GARCIA
JUSTICE

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

JUDGMENT

KAZIM OLADOTUN OYENUGA,
Appellant

No. 05-23-00204-CV V.

CHICAS DEVELOPMENT, LLC,
D/B/A PROSALUTEM, Appellee

On Appeal from the County Court at
Law No. 2, Dallas County, Texas
Trial Court Cause No. CC-20-03378-
B.

Opinion delivered by Justice Garcia.
Justices Pedersen, III and Kennedy
participating.

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

It is **ORDERED** that appellee CHICAS DEVELOPMENT, LLC, D/B/A
PROSALUTEM recover its costs of this appeal from appellant KAZIM
OLADOTUN OYENUGA.

Judgment entered July 26, 2023