

DISMISS and Opinion Filed November 8, 2023



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

No. 05-23-00821-CV

**AARON DRAKE, III, Appellant
V.
KATHELINE DRAKE, Appellee**

**On Appeal from the 254th Judicial District Court
Dallas County, Texas
Trial Court Cause No. DF-22-01299**

MEMORANDUM OPINION

Before Justices Carlyle, Smith, and Kennedy
Opinion by Justice Kennedy

This appeal challenges the trial court's November 7, 2022 final decree of divorce. No request for findings of fact or a motion for new trial or modify judgment was timely filed, and the conditions for a restricted appeal are not met. Accordingly, the notice of appeal was due within thirty days of judgment or December 6, 2022. *See* TEX. R. APP. P. 26.1(a), 26.3. The notice of appeal was filed August 21, 2023.

Because the timely filing of a notice of appeal is jurisdictional, we directed appellant to file a letter brief addressing the jurisdictional issue. *See Brashear v. Victoria Gardens of McKinney, LLC*, 302 S.W.3d 542, 545 (Tex. App.—Dallas

2009, no pet.) (op. on reh'g) (timely filing of notice of appeal is jurisdictional). Appellant complied. In his letter brief, appellant asserts details about his marriage with appellee, but does not address our jurisdictional concerns.

Because the notice of appeal was untimely filed, we dismiss the appeal and all pending motions for want of jurisdiction. *See* TEX. R. APP. P. 42.3(a).

/Nancy Kennedy/
NANCY KENNEDY
JUSTICE

230821F.P05



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

JUDGMENT

AARON DRAKE III, Appellant

No. 05-23-00821-CV V.

KATOHELINE DRAKE, Appellee

On Appeal from the 254th Judicial
District Court, Dallas County, Texas
Trial Court Cause No. DF-22-01299.
Opinion delivered by Justice
Kennedy, Justices Carlyle and Smith
participating.

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

It is **ORDERED** that appellee KATOHELINE DRAKE recover her costs, if
any, of this appeal from appellant AARON DRAKE III.

Judgment entered November 8, 2023.