



Fourth Court of Appeals
San Antonio, Texas

MEMORANDUM OPINION

No. 04-16-00429-CV

Albert **PORTER**,
Appellant

v.

The **STATE** of Texas,
Appellee

From the County Court at Law No. 3, Bexar County, Texas
Trial Court No. 2015CV06349
Honorable David J. Rodriguez, Judge Presiding

PER CURIAM

Sitting: Karen Angelini, Justice
Marialyn Barnard, Justice
Rebeca C. Martinez, Justice

Delivered and Filed: August 10, 2016

DISMISSED FOR LACK OF JURISDICTION

The trial court signed a final judgment on May 19, 2016. Because appellant did not file a motion for new trial, motion to modify the judgment, motion for reinstatement, or request for findings of fact and conclusions of law, his notice of appeal was due to be filed on June 18, 2016. *See* TEX. R. APP. P. 26.1(a). A motion for extension of time to file appellant's notice of appeal was due on July 3, 2016. *See* TEX. R. APP. P. 26.3.

Appellant filed his notice of appeal on July 1, 2016. Although appellant filed a notice of appeal within the fifteen-day grace period allowed by Rule 26.3, he did not file a motion for

extension of time. A motion for extension of time is necessarily implied when an appellant, acting in good faith, files a notice of appeal beyond the time allowed by Texas Rule of Appellate Procedure 26.1 but within the fifteen-day grace period provided by Rule 26.3 for filing a motion for extension of time. *See Verburgt v. Dorner*, 959 S.W.2d 615, 617 (Tex. 1997) (construing the predecessor to Rule 26). However, an appellant must offer a reasonable explanation for failing to file the notice of appeal in a timely manner. *See id.*; TEX. R. APP. P. 26.3, 10.5(b)(1)(C).

We ordered appellant to file, by July 26, 2016, a response presenting a reasonable explanation for his untimely notice of appeal. We warned appellant that if no such response was filed, this appeal would be dismissed. *See* TEX. R. APP. P. 42.3(c). No response was filed.¹ In the absence of a response presenting a reasonable explanation for appellant's untimely notice of appeal, we have no jurisdiction over this appeal. *See Markwardt v. City of San Antonio*, No. 04-15-00675-CV, 2016 WL 320597, at *1 (Tex. App.—San Antonio Jan. 20, 2016, no pet.) (dismissing appeal for lack of jurisdiction when the appellant failed to provide a reasonable explanation for failing to file the notice of appeal in a timely manner). Therefore, this appeal is dismissed for lack of jurisdiction. *See id.*; *see also* TEX. R. APP. P. 42.3(c).

PER CURIAM

¹Appellant filed a brief on July 20, 2016.