



Fourth Court of Appeals
San Antonio, Texas

MEMORANDUM OPINION

No. 04-19-00552-CR

Kenneth GARNER,
Appellant

v.

The **STATE** of Texas,
Appellee

From the 227th Judicial District Court, Bexar County, Texas
Trial Court No. 2014CR0974
Honorable Kevin M. O'Connell, Judge Presiding

PER CURIAM

Sitting: Irene Rios, Justice
Beth Watkins, Justice
Liza A. Rodriguez, Justice

Delivered and Filed: October 2, 2019

DISMISSED FOR LACK OF JURISDICTION

A jury convicted appellant Kenneth Garner of aggravated sexual assault, and based upon the jury's recommendation, on May 26, 2015, the trial court sentenced Garner to life imprisonment with a fine of \$10,000.00.

Garner filed a motion for new trial on June 23, 2015, and a hearing was held on that motion on July 16, 2015. Garner's notice of appeal was due to be filed August 24, 2015. TEX. R. APP. P. 26.2(a)(1). A motion for extension of time to file the notice of appeal was due on September 8, 2015. TEX. R. APP. P. 26.3. On August 18, 2019, Garner filed a "Motion to Court in Good Faith

to File a[n] Out of Time Appeal with Court.” We issued an order denying Garner’s motion on September 5, 2019.

We lack jurisdiction to entertain this appeal. *See Slaton v. State*, 981 S.W.2d 208, 210 (Tex. Crim. App. 1998) (holding that if an appeal is not timely perfected, the court of appeals does not obtain jurisdiction to address the merits of appeal, and the court may take no action other than to dismiss appeal; an appellate court may not suspend rules to alter time for perfecting appeal); *Olivo v. State*, 918 S.W.2d 519, 522 (Tex. Crim. App. 1996); *see also Ater v. Eighth Court of Appeals*, 802 S.W.2d 241 (Tex. Crim. App. 1991) (explaining that writ of habeas corpus pursuant to article 11.07 of the Texas Code of Criminal Procedure governs out-of-time appeals from felony convictions).

Accordingly, we dismiss this appeal for lack of jurisdiction.

PER CURIAM

DO NOT PUBLISH