



Fourth Court of Appeals
San Antonio, Texas

MEMORANDUM OPINION

No. 04-24-00175-CR

Kendale James LEE,
Appellant

v.

The **STATE** of Texas,
Appellee

From the 175th Judicial District Court, Bexar County, Texas
Trial Court No. 2013CR0038
Honorable Catherine Torres-Stahl, Judge Presiding

PER CURIAM

Sitting: Rebeca C. Martinez, Chief Justice
Patricia O. Alvarez, Justice
Lori I. Valenzuela, Justice

Delivered and Filed: April 24, 2024

DISMISSED FOR LACK OF JURISDICTION

The trial court imposed sentence in the underlying cause on January 13, 2023. Because appellant did not file a motion for new trial, the notice of appeal was due to be filed February 13, 2023. TEX. R. APP. P. 26.2(a)(1). A motion for extension of time to file the notice of appeal was due on February 28, 2023. TEX. R. APP. P. 26.3. Appellant filed a notice of appeal over a year later on March 11, 2024.

A timely notice of appeal is necessary to invoke a court of appeals' jurisdiction. *See Olivo v. State*, 918 S.W.2d 519, 522 (Tex. Crim. App. 1996). A late notice of appeal may be considered

timely so as to invoke a court of appeals' jurisdiction if (1) it is filed within fifteen days of the last day allowed for filing, (2) a motion for extension of time is filed in the court of appeals within fifteen days of the last day allowed for filing the notice of appeal, and (3) the court of appeals grants the motion for extension of time. *See id.*

Having reviewed the record, it appears the notice of appeal was untimely filed, and no motion for extension of time was filed. Therefore, on March 21, 2024, we ordered appellant to show cause in writing, no later than April 5, 2024, why this appeal should not be dismissed for lack of jurisdiction. *See id.*; *see also Ater v. Eighth Court of Appeals*, 802 S.W.2d 241 (Tex. Crim. App. 1991) (out-of-time appeal from final felony conviction may be sought by filing a writ of habeas corpus pursuant to article 11.07 of the Texas Code of Criminal Procedure). All appellate deadlines were suspended until further order of the court. Appellant did not respond to our March 21 order.

We dismiss this appeal for lack of jurisdiction.

PER CURIAM

DO NOT PUBLISH