



**COURT OF APPEALS
SECOND DISTRICT OF TEXAS
FORT WORTH**

NO. 2-09-370-CR

TRIMAINE MCCLARTY

APPELLANT

V.

THE STATE OF TEXAS

STATE

FROM THE 362ND DISTRICT COURT OF DENTON COUNTY

MEMORANDUM OPINION¹

Appellant Trimaine McClarty attempts to appeal his conviction for aggravated assault, for which he was sentenced to fifteen years' confinement on December 11, 2008. On October 22, 2009, McClarty filed a notice of appeal.

¹ [...](#) See Tex. R. App. P. 47.4.

On October 30, 2009, we sent McClarty a letter stating that the court was concerned that it lacked jurisdiction over his appeal because his notice of appeal was not timely filed.² See Tex. R. App. P. 26.2(a)(1) (stating that the notice of appeal must be filed within thirty days after the day sentence is imposed or after the day the trial court enters an appealable order). Our letter also stated that the trial court's certification stated that this is a plea-bargain case, that McClarty had no right of appeal, and that he had waived his right of appeal. See Tex. R. App. P. 25.2(a)(2). We instructed McClarty or any party desiring to continue the appeal to file with the court a response showing grounds for continuing the appeal by November 9, 2009, or this appeal would be dismissed. We have received no response.

Because the trial court certified that McClarty possesses no right of appeal and because McClarty failed to file a timely notice of appeal, we lack jurisdiction over this appeal. See *Slaton v. State*, 981 S.W.2d 208, 210 (Tex. Crim. App. 1998). Accordingly, we dismiss this appeal for want of jurisdiction. See Tex. R. App. P. 25.2(b), (d), 43.2(f).

² ... McClarty's notice of appeal was due January 12, 2009, but was not filed until October 22, 2009.

PER CURIAM

PANEL: MCCOY, J.; CAYCE, C.J.; and MEIER, J.

DO NOT PUBLISH
Tex. R. App. P. 47.2(b)

DELIVERED: DECEMBER 23, 2009