



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

NO. 02-12-00447-CR

GARY WAYNE TARVER

APPELLANT

V.

THE STATE OF TEXAS

STATE

FROM THE 355TH DISTRICT COURT OF HOOD COUNTY

MEMORANDUM OPINION¹

Appellant Gary Wayne Tarver attempts to appeal his conviction for DWI-subsequent offense. The trial court imposed Tarver's sentence on November 29, 2011. Therefore, his notice of appeal was due by December 29, 2011, but was not filed until September 28, 2012. See Tex. R. App. P. 26.2(a), 26.3. Tarver also filed a motion for extension of time to file the notice of appeal.

¹See Tex. R. App. P. 47.4.

If a notice of appeal is not timely filed, the court of appeals has no option but to dismiss the appeal for lack of jurisdiction. *Castillo v. State*, 369 S.W.3d 196, 198 (Tex. Crim. App. 2012). The remedy for a defendant with a final felony conviction who seeks an out-of-time appeal is by way of post-conviction writ of habeas corpus under article 11.07 of the code of criminal procedure. *Richardson v. State*, No. 05-02-01592-CR, 2002 WL 31371944, at *1 (Tex. App.—Dallas Oct. 22, 2002, no pet.) (not designated for publication). Accordingly, we deny Tarver’s motion for extension of time to file a late notice of appeal, and we dismiss this appeal for want of jurisdiction. See Tex. R. App. P. 43.2(f).

PER CURIAM

PANEL: MEIER, J.; LIVINGSTON, C.J.; and GABRIEL, J.

DO NOT PUBLISH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

DELIVERED: November 1, 2012