



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

**NO. 02-17-00320-CR**

LARRY WES DRISKILL

APPELLANT

V.

THE STATE OF TEXAS

STATE

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FROM THE 43RD DISTRICT COURT OF PARKER COUNTY  
TRIAL COURT NO. CR15-0168

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**MEMORANDUM OPINION<sup>1</sup>**

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Pro se Appellant Larry Wes Driskill attempts to appeal the trial court's judgment convicting him of murder and sentencing him to fifteen years' confinement. Because we have no jurisdiction over this appeal, we dismiss it.

**Procedural Background**

On July 6, 2017, Appellant pled no contest (*nolo contendere*) to murder in

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<sup>1</sup>See Tex. R. App. P. 47.4.

exchange for fifteen years' confinement, and the trial court followed the plea bargain and sentenced him accordingly. See Tex. R. App. P. 25.2(a)(2). Appellant also waived his right of appeal as part of the bargain. The trial court's certification states that (1) this is a plea-bargained case and Appellant has no right of appeal and (2) Appellant waived his right of appeal. See Tex. R. App. P. 25.2(a)(2), (d). Nevertheless, Appellant filed a pro se notice of appeal on October 2, 2017. The notice of appeal was dated September 24, 2017, and postmarked September 26, 2017.

### **Discussion**

We informed Appellant by letter of our concern that we lack jurisdiction over this appeal because his notice of appeal, which was due August 7, 2017, was filed untimely. See Tex. R. App. P. 26.2(a) (providing notice of appeal must be filed within thirty days of sentencing absent timely motion for new trial). We stated that this appeal was subject to dismissal absent a response showing grounds for continuing the appeal. Appellant's appointed counsel's response concedes that we lack jurisdiction based on the late notice of appeal.

A notice of appeal that complies with the requirements of rule 26 is essential to vest this court with jurisdiction. See *id.* The Texas Court of Criminal Appeals has expressly held that without a timely filed notice of appeal or motion for extension of time, we cannot exercise jurisdiction over an appeal. *Olivo v. State*, 918 S.W.2d 519, 522 (Tex. Crim. App. 1996).

## **Conclusion**

Because Appellant filed his pro se notice of appeal too late, we dismiss this appeal for want of jurisdiction. See Tex. R. App. P. 43.2(f).

PER CURIAM

PANEL: PITTMAN, J.; SUDDERTH, C.J.; and WALKER, J.

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

DELIVERED: November 22, 2017