



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

NO. 02-17-00325-CV

THOMAS FLORENCE

APPELLANT

V.

CODY MILLER AND JOHN
MAYFIELD

APPELLEES

FROM THE 78TH DISTRICT COURT OF WICHITA COUNTY
TRIAL COURT NO. 185,363-B

MEMORANDUM OPINION¹

Appellant Thomas Florence, an inmate proceeding pro se, attempts to appeal from the trial court's order dismissing his *in forma pauperis* suit pursuant to Chapter 14 of the Texas Civil Practices and Remedies Code. Because

¹See Tex. R. App. P. 47.4.

Florence's notice of appeal was untimely, we dismiss this appeal for want of jurisdiction.

Florence's notice of appeal was filed on September 21, 2017. On September 26, 2017, we notified Florence that it appeared we lacked jurisdiction over this appeal because his notice of appeal was not timely filed. See Tex. R. App. P. 26.1. We advised him that this appeal could be dismissed unless he, or any party desiring to continue the appeal, filed a response showing grounds for continuing the appeal on or before October 6, 2017. See Tex. R. App. P. 42.3(a), 44.3. Florence filed a response, but it does not show grounds for continuing this appeal.

The trial court signed its order dismissing Florence's suit on March 13, 2017, and on April 5, 2017, Florence filed a motion for new trial. Thus, the deadline for Florence to file his notice of appeal was June 12, 2017. See Tex. R. App. P. 26.1(a)(1) (providing a notice of appeal must be filed within ninety days after the trial court's judgment is signed if any party timely files a motion for new trial). Florence did not file his notice of appeal until September 21, 2016. We do not have jurisdiction over an appeal absent a timely-filed notice of appeal. *Howlett v. Tarrant Cty.*, 301 S.W.3d 840, 843 (Tex. App.—Fort Worth 2009, pet. denied) (op. on reh'g) (citing *Verburgt v. Dorner*, 959 S.W.2d 615, 617 (Tex. 1997)). Accordingly, because Florence's notice of appeal was untimely filed, we dismiss this appeal for want of jurisdiction.

/s/ Lee Gabriel

LEE GABRIEL
JUSTICE

PANEL: GABRIEL, KERR, and PITTMAN, JJ.

DELIVERED: October 19, 2017