



**In The
Court of Appeals
Seventh District of Texas at Amarillo**

No. 07-15-00242-CR

ROCKY RODRIGUEZ, APPELLANT

V.

THE STATE OF TEXAS, APPELLEE

On Appeal from the 137th District Court
Lubbock County, Texas
Trial Court No. 2007-415,693, Honorable John J. "Trey" McClendon III, Presiding

July 17, 2015

MEMORANDUM OPINION

Before QUINN, C.J., and HANCOCK and PIRTLE, JJ.

Rocky Rodriguez, appellant, attempts to appeal his convictions for aggravated assault with a deadly weapon. The convictions were rendered on May 16, 2007, while his notice of appeal was filed on May 19, 2015. We dismiss for want of jurisdiction.

To be timely, a notice of appeal must be filed within thirty days after the day the sentence is imposed or suspended in open court, or after the day the trial court enters an appealable order; or within ninety days after the day sentence is imposed or suspended in open court if a motion for new trial is filed. TEX. R. APP. P. 26.2(a). The

judgments were entered in this cause on February 29, 2008. Appellant's May 2015 notice of appeal fell years beyond that deadline.

A timely filed notice of appeal is essential to invoke our appellate jurisdiction. *Olivo v. State*, 918 S.W.2d 519, 522 (Tex. Crim. App. 1996). If it is untimely, the Court can take no action other than to dismiss the proceeding. *Id.* at 523. Because appellant's notice of appeal was untimely filed, we have no jurisdiction over the matter and dismiss the appeal. Accordingly, the appeal is dismissed.¹

Per Curiam

Do not publish.

¹ The appropriate vehicle for seeking an out of time appeal from a final felony conviction is by writ of habeas corpus pursuant to Article 11.07 of the Texas Code of Criminal Procedure. See TEX. CODE CRIM. PROC. ANN. art. 11.07 (West Supp. 2013).