



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

No. 07-17-00308-CV

**IN THE MATTER OF THE MARRIAGE OF AMANDA RENEE BECK AND
ZACHARIAH LEE BECK AND IN THE INTEREST OF K.K.B. AND K.S.B., CHILDREN**

On Appeal from the 320th District Court
Potter County, Texas
Trial Court No. 88,545-D, Honorable Don R. Emerson, Presiding

September 14, 2017

MEMORANDUM OPINION

Before QUINN, C.J., and CAMPBELL and PARKER, JJ.

Appellant, Zachariah Lee Beck, an inmate proceeding *pro se*, attempts to appeal a final decree of divorce. We dismiss the appeal for want of jurisdiction.

The trial court signed the divorce decree on April 12, 2017. Because Beck did not file any post-judgment motions or requests,¹ his notice of appeal was due within thirty days, by May 12, 2017. See TEX. R. APP. P. 26.1(a) (A notice of appeal is due within thirty days after a judgment is signed or within ninety days if a motion for new trial, motion to modify the judgment, motion to reinstate, or request for findings of fact

¹ On August 24, 2017, the district clerk filed an affidavit with this court stating that there were no post-judgment filings after the entry of the divorce decree.

and conclusions of law is timely filed.). Beck filed his notice of appeal on July 21, 2017.²

By letter dated August 25, 2017, we notified Beck that his notice of appeal appeared to have been filed untimely and directed him to file a response showing grounds for continuing the appeal or the appeal would be dismissed for want of jurisdiction. In his response, Beck asserts that the notice deadline should have been extended to ninety days after the divorce decree was signed because he filed a motion to modify the judgment on May 2, 2017, and a supplemental motion to modify on May 14, 2017.³ However, no such motion was filed with the district clerk and Beck has not provided any evidence that he timely submitted a motion to modify the judgment to the prison mailing authorities.

Because Beck's late notice of appeal failed to invoke the jurisdiction of this court, we dismiss the appeal for want of jurisdiction. TEX. R. APP. P. 42.3(a).

Per Curiam

² Beck mailed his notice of appeal to the district clerk for filing. The envelope is postmarked July 21, 2017. As the notice was received by the clerk within ten days, it is deemed filed on July 21, 2017. See TEX. R. CIV. P. 5, 21. There is no indication in Beck's response, or in the record, that he delivered his notice of appeal to the prison mailing authorities before July 21, 2017.

³ Had Beck timely filed a motion to modify the judgment, his notice of appeal would have been due within ninety days after the judgment was signed, by July 11, 2017. See TEX. R. APP. P. 26.1(a). This deadline could have been extended by fifteen days, to July 26, 2017, pursuant to appellate rule 26.3. See TEX. R. APP. P. 10.5(b), 26.3; see also *Verburgt v. Dornier*, 959 S.W.2d 615, 617 (Tex. 1997) (implying a motion for extension when an appellant tenders a notice of appeal with fifteen days after the notice deadline).