In The
Court of Appeals
Sixth Appellate District of Texas at Texarkana

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No. 06-09-00164-CR
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LEWIS CORNELIUS TUCKER, Appellant

V.

THE STATE OF TEXAS, Appellee

On Appeal from the 6th Judicial District Court
Lamar County, Texas
Trial Court No. 23001

Before Morriss, C.J., Carter and Moseley, JJ.
Memorandum Opinion by Justice Moseley

MEMORANDUM OPINION

Lewis Cornelius Tucker filed pro se a notice of appeal August 20, 2009, appealing from a judgment that imposed his sentence June 1, 2009.

A timely notice of appeal is necessary to invoke this Court's jurisdiction. *Olivo v. State*, 918 S.W.2d 519, 522 (Tex. Crim. App. 1996). Rule 26.2(a) prescribes the time period in which a notice of appeal must be filed by a defendant in order to perfect appeal in a criminal case. A defendant's notice of appeal is timely if filed within thirty days after the day sentence is imposed or suspended in open court, or within ninety days after sentencing if the defendant timely files a motion for new trial. TEX. R. APP. P. 26.2(a); *Olivo*, 918 S.W.2d at 522. No motion for new trial was filed. The last date Tucker could timely file his notice of appeal was July 1, 2009, thirty days after the day the sentence was imposed in open court. *See* TEX. R. APP. P. 26.2(a)(1).

Further, on our review of the clerk's record, we noted that the trial court's certification of right of appeal stated that this was a plea agreement case and that Tucker has no right of appeal.

Unless a certification, showing that a defendant has the right of appeal, is in the record, we must dismiss the appeal. *See* TEX. R. APP. P. 25.2(d).

Because the trial court's certification affirmatively shows Tucker has no right of appeal, and because the record before us does not reflect that the certification is incorrect, *see Dears v. State*, 154 S.W.3d 610, 615 (Tex. Crim. App. 2005), we must dismiss the appeal.

We dismiss the appeal for want of jurisdiction.

                                        Bailey C. Moseley
                                        Justice

Date Submitted: September 9, 2009
Date Decided: September 10, 2009

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