



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

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No. 06-17-00046-CV

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IN THE INTEREST OF A.R., A CHILD

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On Appeal from the 71st District Court  
Harrison County, Texas  
Trial Court No. 14-0648A

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

## MEMORANDUM OPINION

The appellant, Father, seeks to appeal from a trial court order terminating his parental rights to A.R.<sup>1</sup> The final judgment terminating Father's parental rights was signed on February 21, 2017, and Father's notice of appeal was filed on March 31, 2017, thirty-eight days after the judgment was signed.

An appeal from an order terminating parental rights is an accelerated appeal. TEX. FAM. CODE ANN. §§ 109.002, 263.405(a) (West 2014) (establishing that appeals from final termination orders are accelerated and governed by appellate procedures for accelerated appeals). Under the Texas Rules of Appellate Procedure, "an accelerated appeal is perfected by filing a notice of appeal in compliance with Rule 25.1 within the time allowed by Rule 26.1(b) or as extended by Rule 26.3." TEX. R. APP. P. 28.1(b). The Rules further state, "Filing a motion for new trial, any other post-trial motion, or a request for findings of fact will not extend the time to perfect an accelerated appeal." *Id.* Rule 26.1(b) requires a notice of appeal to be filed within twenty days of the date the order being appealed was signed. TEX. R. APP. P. 26.1(b). Finally, Rule 26.3 provides a fifteen-day grace period for filing a notice of appeal. TEX. R. APP. P. 26.3. Specifically, Rule 26.3 allows for an extension of the deadline for filing a notice of appeal but only if, "within 15 days after the deadline for filing the notice of appeal, the party" files (1) the notice of appeal and (2) a motion seeking an extension of time. *Id.* The motion is implied in civil cases. *In re G.J.P.*, 314 S.W.3d

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<sup>1</sup>We refer to the child by its initials and to the appellant as "Father" to protect the privacy of the child. See TEX. FAM. CODE ANN. § 109.002(d).

217, 221–22 (Tex. App.—Texarkana 2010, pet. denied) (citing *Verburgt v. Dorner*, 959 S.W.2d 615, 617 (Tex. 1997)).

In this case, Father’s notice of appeal was due twenty days after the trial court’s termination order was signed. *See* TEX. R. APP. P. 26.1(b). The order was signed on February 21, 2017, and the notice of appeal was due on or before March 13, 2017. To invoke Rule 26.3’s fifteen-day extension period, Father’s notice of appeal would had to have been filed within fifteen days of March 13, 2017, or on or before March 28, 2017. *See* TEX. R. APP. P. 26.3. Father’s notice of appeal was filed on March 31, 2017, eighteen days past the filing deadline and three days too late to take advantage of the extension provision of Rule 26.3.

In a letter dated April 12, 2017, we advised Father of this potential defect in our jurisdiction and afforded him the opportunity to show us how we had jurisdiction notwithstanding the failure to timely perfect the appeal. In a response filed on Father’s behalf, appellate counsel conceded that the notice of appeal was untimely, candidly admitted that the late filing was due to an honest mistake on his part, and earnestly asked the Court not to punish his clients for his inadvertent error. Counsel did not, however, offer any legal authority demonstrating how we have jurisdiction to entertain this appeal, and we have found none. While we are not unsympathetic to Father’s plight, we are not authorized to alter the deadlines for perfecting appeals in a civil case. *See* TEX. R. APP. P. 2; *In re J.A.G.*, 92 S.W.3d 539, 540 (Tex. App.—Amarillo 2002, no pet.).<sup>2</sup> Consequently,

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<sup>2</sup>While Rule 2 of the Texas Rules of Appellate Procedure allows us to suspend our appellate rules in some instances, it specifically prohibits us from “alter[ing] the time for perfecting an appeal in a civil case.” TEX. R. APP. P. 2. The Texas Supreme Court held in *In re M.S.* that in very limited instances in parental rights termination case, due process requires Texas’ error preservation rules to yield in favor of reviewing an issue on appeal even when trial counsel failed to preserve the issue at trial. *In re M.S.*, 115 S.W.3d 534, 549 (Tex. 2003). Nevertheless, *M.S.* does not directly

Father's notice of appeal was untimely and failed to properly invoke this Court's jurisdiction to hear his appeal.

We dismiss the appeal for want of jurisdiction.

Josh R. Morriss, III  
Chief Justice

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Date Decided: May 10, 2017

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address this situation, and we find no other authority which would permit us to alter the deadline for filing a notice of appeal.