



IN THE
TENTH COURT OF APPEALS

No. 10-17-00028-CR

MUKHTAR OWAIS,

Appellant

v.

THE STATE OF TEXAS,

Appellee

From the 361st District Court
Brazos County, Texas
Trial Court No. 12-05308-CRF-361

MEMORANDUM OPINION

In this appeal, the trial court orally pronounced appellant Mukhtar Owais's sentence on November 23, 2016. Pursuant to Texas Rule of Appellate Procedure 26.2(a)(1), appellant's notice of appeal was due within thirty days of November 23, 2016. See TEX. R. APP. P. 26.2(a)(1) ("The notice of appeal must be filed . . . within 30 days after the day sentence is imposed or suspended in open court, or after the day the trial court enters an appealable order."). Appellant did not file his notice of appeal in this case until

January 27, 2017, more than a month after it was due under Rule 26.2(a)(1). *See id.*; *see also Harkcom v. State*, 484 S.W.3d 432, 434 (Tex. Crim. App. 2016) (noting that a defendant's notice of appeal is timely if filed within thirty days after the date the sentence is imposed or suspended in open court).

“Timely filing of a written notice of appeal is a jurisdictional prerequisite to hearing an appeal. If a notice of appeal is not timely filed, the court of appeals has no option but to dismiss the appeal for lack of jurisdiction.” *Castillo v. State*, 369 S.W.3d 196, 198 (Tex. Crim. App. 2012) (internal footnotes omitted); *see Olivo v. State*, 918 S.W.2d 519, 522 (Tex. Crim. App. 1996) (noting that a timely notice of appeal is necessary to invoke a court of appeals' jurisdiction).

Because the present case is from an “ordinary” appellate context, and because appellant filed his notice of appeal more than a month after the time it was due, we have no choice but to dismiss this appeal for want of jurisdiction. *See* TEX. R. APP. P. 26.2(a)(1); *see also Castillo*, 369 S.W.3d at 198; *Olivo*, 918 S.W.2d at 522; *O'Conner v. State*, 266 S.W.3d 575, 578 (Tex. App.—Amarillo 2008, pet. ref'd) (concluding that, in an “ordinary” appeal, the time to file a notice of appeal challenging a conviction begins to run on the day the sentence was imposed or suspended in open court, not from the date the sentence is signed and entered in the trial court). Accordingly, we hereby dismiss this appeal.

AL SCOGGINS
Justice

Before Chief Justice Gray,
Justice Davis, and
Justice Scoggins

Dismissed

Opinion delivered and filed May 23, 2018

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[CR25]

