

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-02-00674-CR

Kenneth Jackson, Appellant

v.

The State of Texas, Appellee

**FROM THE DISTRICT COURT OF TRAVIS COUNTY, 390TH JUDICIAL DISTRICT
NO. 9024128, HONORABLE JULIE H. KOCUREK, JUDGE PRESIDING**

Kenneth Jackson seeks to appeal from a judgment of conviction for aggravated sexual assault and indecency with a child. Sentence was imposed on August 22, 2002. There was no motion for new trial. The deadline for perfecting appeal was therefore September 23, 2002. Tex. R. App. P. 26.2(a)(1); *see id.* 4.1(a).

The first attorney appointed to represent Jackson did not file a notice of appeal on Jackson's behalf. On September 18, five days before the deadline for perfecting appeal, substitute counsel was appointed. This attorney, Jackson's current counsel of record, did not file a notice of appeal. Jackson's pro se notice of appeal was filed on September 24, 2002, one day late. No extension of time for perfecting appeal was requested. *See* Tex. R. App. P. 26.3. Although the pro se notice of appeal is dated September 22, 2002, there is no indication that it was properly mailed to the district clerk within the time prescribed by rule 26.2(a). *See* Tex. R. App. P. 9.2(b).

Under the circumstances, we lack jurisdiction to dispose of the purported appeal in any manner other than by dismissing it for want of jurisdiction. *See Slaton v. State*, 981 S.W.2d 208 (Tex. Crim. App.1998); *Olivo v. State*, 918 S.W.2d 519, 522-23 (Tex. Crim. App. 1996). Jackson must obtain an out-of-time appeal by means of a post-conviction habeas corpus application. *See* Tex. Code Crim. Proc. Ann. art. 11.07 (West Supp. 2002).

The appeal is dismissed.

David Puryear, Justice

Before Chief Justice Aboussie, Justices Patterson and Puryear

Dismissed for Want of Jurisdiction

Filed: November 7, 2002

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