

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-12-00707-CR

Thomas Creech, Appellant

v.

The State of Texas, Appellee

**FROM THE DISTRICT COURT OF LLANO COUNTY, 424TH JUDICIAL DISTRICT
NO. 6350, THE HONORABLE DANIEL H. MILLS, JUDGE PRESIDING**

MEMORANDUM OPINION

Thomas Creech seeks to appeal from a judgment of conviction for murder. *See* Tex. Penal Code Ann. § 19.02 (West 2011). Sentence was imposed on August 29, 2012. No motion for new trial was filed. Therefore, the deadline for perfecting appeal was September 28, 2012. *See* Tex. R. App. P. 26.2(a)(1). Notice of appeal was filed on October 19, 2012.

On October 22, 2012, Creech filed a motion requesting an extension of time for filing the notice of appeal in this Court. The rules of appellate procedure allow an appellate court to extend the time to file the notice of appeal if, within 15 days after the deadline for filing the notice of appeal, the appellant: (1) files the notice of appeal in the trial court, and (2) files a motion for extension in the appellate court. *See* Tex. R. App. P. 26.3. Here, the notice of appeal was filed in the trial court 21 days after the deadline for filing the notice of appeal. Thus, it is untimely and we are without

authority to extend the time to file the notice of appeal.¹ *See Strange v. State*, 258 S.W.3d 184, 186–87 (Tex. App.—Houston [1st Dist.] 2007, pet. ref’d) (“The limited, 15-day extended time period applies to both the notice and the motion for extension; both must be filed within the 15-day time period.”). The motion for extension is denied.

Compliance with Rule 26—the timely filing of a notice of appeal—is essential to vest this Court with jurisdiction. *See Castillo v. State*, 369 S.W.3d 196, 198 (Tex. Crim. App. 2012) (citing *Olivo v. State*, 918 S.W.2d 519, 522 (Tex. Crim. App. 1996)); *Slaton v. State*, 981 S.W.2d 208, 210 (Tex. Crim. App. 1998). Under the circumstances, we lack jurisdiction to dispose of this attempted appeal in any manner other than by dismissing it for want of jurisdiction. *See Castillo*, 369 S.W.3d at 198. Accordingly, the appeal is dismissed.

Melissa Goodwin, Justice

Before Chief Justice Jones, Justices Rose and Goodwin

Dismissed for Want of Jurisdiction

Filed: November 30, 2012

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¹ There is no indication that the notice of appeal was properly mailed to the district clerk within the time prescribed by either rules 26.2(a) or 26.3 in accordance with the mailbox rule. *See* Tex. R. App. P. 9.2(b).