

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-12-00799-CV

Robert Cronin, Appellant

v.

Wells Fargo Bank, N.A., a/k/a Wells Fargo Home Mortgage, Appellee

**FROM THE DISTRICT COURT OF BELL COUNTY, 146TH JUDICIAL DISTRICT
NO. 249,495-B, HONORABLE RICK MORRIS, JUDGE PRESIDING**

MEMORANDUM OPINION

Appellant Robert Cronin appeals a judgment that was signed by the trial court on August 3, 2012. The appellee now moves to dismiss the appeal for want of jurisdiction, arguing that Cronin's notice of appeal was untimely filed. Though the appellee filed its motion to dismiss on January 14, 2013, Cronin has not yet filed a response.

Generally, under the Texas Rules of Appellate Procedure, an appeal is perfected in a civil case when a notice of appeal is filed within thirty days after the judgment is signed. Tex. R. App. P. 25.1(a), 26.1. However, when a party timely files a postjudgment motion seeking a substantive change in the judgment, both the trial court's plenary jurisdiction and the appellate timetable are extended. Tex. R. Civ. P. 329b(g); *Lane Bank Equip. Co. v. Smith S. Equip., Inc.*, 10 S.W.3d 308, 314 (Tex. 2000). When this occurs, a notice of appeal must be filed within ninety days after the

judgment is signed. Tex. R. App. P. 26.1(a)(1) (filing of motion for new trial or motion to modify judgment extends notice of appeal filing deadline).

In this case, Cronin filed a motion for reconsideration, seeking a substantive change in the judgment, on September 14, 2012. However, because Cronin filed his motion for reconsideration more than thirty days after the judgment was signed, his motion was untimely. *See* Tex. R. App. P. 329b (any motion for new trial or motion to modify, correct, or reform judgment must be filed within thirty days after judgment is signed). As a result, Cronin's notice of appeal was due on or before September 2, 2012, but it was not filed until November 6, 2012. Because Cronin's notice of appeal was not timely filed, this Court does not have jurisdiction over the appeal. *See* Tex. R. App. P. 25.1(b) (filing of notice of appeal invokes appellate court's jurisdiction). Accordingly, we grant the appellee's motion and dismiss the appeal for want of jurisdiction. *See* Tex. R. App. P. 42.3(a).

Scott K. Field, Justice

Before Chief Justice Jones, Justices Goodwin and Field

Dismissed for Want of Jurisdiction

Filed: March 6, 2013