

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-22-00092-CR

David Rodriguez, Jr., Appellant

v.

The State of Texas, Appellee

**FROM THE 20TH DISTRICT COURT OF MILAM COUNTY
NO. CR26,673, THE HONORABLE JOHN YOUNGBLOOD, JUDGE PRESIDING**

MEMORANDUM OPINION

After the State indicted David Rodriguez, Jr. for the first-degree felony offense of murder, he entered an open plea of guilty to the lesser-included offense of second-degree manslaughter. *See* Tex. Penal Code § 19.04. On November 18, 2021, the trial court sentenced Rodriguez to eighteen years' imprisonment and certified that Rodriguez had the right to appeal as to "sentencing." *See* Tex. R. App. P. 25.2(d).

A defendant's notice of appeal must be filed within thirty days after sentence is imposed, or within ninety days after sentence is imposed if the defendant has timely filed a motion for new trial. *See id.* R. 26.2(a). The time for filing a notice of appeal may be extended if, within fifteen days of the deadline for filing the notice of appeal, a defendant files a notice of appeal and a motion for extension of time to file the notice of appeal. *See id.* R. 26.3. A notice of appeal complying with the requirements of Rule 26 is required to vest a court of appeals with jurisdiction. *See Slaton v. State*, 981 S.W.2d 208, 210 (Tex. Crim. App. 1998). We lack

jurisdiction to address the merits of an appeal when an appeal is not timely perfected, and in such circumstances, we must dismiss the appeal. *See id.*

Here, Rodriguez was sentenced on November 18, 2021, but he did not file a motion for new trial and did not mail his pro se notice of appeal for filing in this Court until February 16, 2022. Thus, his appeal is untimely. *See id.* R. 26.2(a)(1). We dismiss the appeal for want of jurisdiction. *See id.* R. 43.2(f).

Darlene Byrne, Chief Justice

Before Chief Justice Byrne, Justices Kelly and Smith

Dismissed for Want of Jurisdiction

Filed: June 2, 2022

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