

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-23-00639-CV

In re Commitment of Alvin Gerald Alexander

**FROM THE PROBATE COURT NO. 1 OF TRAVIS COUNTY
NO. C-1-MH-23-001337, THE HONORABLE GUY S. HERMAN, JUDGE PRESIDING**

MEMORANDUM OPINION

Alvin Gerald Alexander, appearing pro se, seeks to appeal from the trial court's order authorizing a mental-health provider to administer psychoactive medication to him.¹ *See* Tex. Health & Safety Code §§ 574.104, .106.

To appeal an order authorizing the administration of psychoactive medication, a notice of appeal must be filed no later than the tenth day after the date the order is signed. *See id.* § 574.070(b); *see also id.* § 574.108 (patient may appeal order for administration of medication “in the manner provided by Section 574.070”). A motion for new trial does not extend the time for filing a notice of appeal under Section 574.070. *Johnstone v. State*, 22 S.W.3d 408, 410 (Tex. 2000); *In re J.A.*, 53 S.W.3d 869, 871 (Tex. App.—Dallas 2001, no pet.); *State ex re. F.P.H.*, No. 12-08-00503-CV, 2009 Tex. App. LEXIS 3742, at *1 (Tex. App.—Tyler Jan. 21, 2009, no pet.) (mem. op.) (per curiam). A court of appeals may, however, grant an extension of time to file a notice of appeal if, within 15 days after the deadline for filing

¹ Alexander is currently receiving court-ordered in-patient mental-health services for the purpose of restoring his competency to stand trial. *See* Tex. Code Crim. Proc. art. 46B.073.

the notice of appeal, the party files (1) the notice of appeal in the trial court, and (2) a motion for extension of time in the court of appeals. *See* Tex. R. App. P. 26.3; *see also* *Verburgt v. Dorner*, 959 S.W.2d 615, 617-18 (Tex. 1997) (motion for extension of time to file notice of appeal is implied when appellant, acting in good faith, files notice of appeal within 15-day extension period allowed by rules of appellate procedure).

In this case, the trial court signed the order authorizing the administration of medication on September 13, 2023. Consequently, Alexander's notice of appeal was due by September 23, 2023, and his deadline for filing a motion for extension of time to file his notice of appeal was October 10, 2023. Alexander did not file a motion for extension of time to file his notice of appeal, and he filed his notice of appeal on October 17, 2023. Without a timely filed notice of appeal, this Court lacks jurisdiction. *See* Tex. R. App. P. 25.1(b); *In re United Servs. Auto Ass'n*, 307 S.W.3d 299, 307 (Tex. 2010) (orig. proceeding) (explaining that requirement of timely notice of appeal is jurisdictional).

Accordingly, we dismiss this appeal for want of jurisdiction. *See* Tex. R. App. P. 42.3 (a).

Chari L. Kelly, Justice

Before Chief Justice Byrne, Justices Kelly and Theofanis

Dismissed for Want of Jurisdiction

Filed: November 30, 2023