

**TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN**

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**NO. 03-24-00041-CV**

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**David E. Jones, Appellant**

**v.**

**Jessica L. Jones, Appellee**

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**FROM THE 250TH DISTRICT COURT OF TRAVIS COUNTY  
NO. D-1-FM-13-001139, THE HONORABLE MARIA CANTÚ HEXSEL, JUDGE PRESIDING**

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**MEMORANDUM OPINION**

Appellant David E. Jones seeks to appeal a dismissal for want of prosecution, signed by the trial court on May 6, 2022.

The timely filing of a notice of appeal is necessary to invoke this Court's appellate jurisdiction. *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). A notice of appeal generally must be filed within thirty days after the judgment is signed. Tex. R. App. P. 26.1. The deadline to file a notice of appeal is extended to ninety days when any party *timely* files, among other things, a motion to reinstate. *Id.* R. 26.1(a)(3) (emphasis added).

On November 7, 2023, more than a year after the trial court signed the judgment dismissing his case, appellant filed a motion asking the trial court to reconsider its dismissal and to reinstate his case. *See* Tex. R. Civ. P. 165a (providing procedure for dismissal for want of

prosecution). Because appellant's motion to reinstate was filed after the thirty-day deadline for filing a motion to reinstate under Rule 165a(3), the motion was untimely. *See id.* R 165a(3). As a result, the motion did not operate to extend the appellate deadline, and appellant's notice of appeal was due June 6, 2022, thirty days after the dismissal was signed. *See* Tex. R. App. P. 26.1; *Martin v. Estell Acres, LLC*, No. 03-23-00638-CV, 2023 Tex. App. LEXIS 9038, at \*2 (Tex. App.—Austin Dec. 1, 2023, no pet.) (mem. op.) (explaining that deadline for appealing final judgment “runs from the date of the signing of the final judgment, not from the subsequent denial of a motion for new trial”). Moreover, even if the motion to reinstate had been timely filed, the deadline for appellant to file his notice of appeal would have been extended to August 6, 2022. *See* Tex. R. App. P. 26.1(a). Appellant did not file his notice of appeal until January 18, 2024.

On March 6, 2024, the Clerk of this Court sent notice to appellant that his notice of appeal appeared untimely and that the appeal would be dismissed for want of jurisdiction unless he filed a response explaining how this Court has jurisdiction over his appeal. In his written response, appellant contends that his notice of appeal should be considered timely because he did not receive timely notice of the “court’s intention to dismiss and the date and place of the dismissal hearing.” *See* Tex. R. Civ. P. 165a(1) (requiring notice of court’s intention to dismiss for want of prosecution). However, even assuming without deciding that appellant failed to receive adequate notice of the court’s intention to dismiss his case, he does not explain how this lack of notice prevented him from timely filing a notice of appeal.

In the absence of a timely filed notice of appeal, this Court lacks jurisdiction. Accordingly, we dismiss this appeal for want of jurisdiction. *See* Tex. R. App. P. 42.3(a).

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Chari L. Kelly, Justice

Before Chief Justice Byrne, Justices Kelly and Theofanis

Dismissed for Want of Jurisdiction

Filed: March 29, 2024