



**NUMBER 13-18-00247-CV**

**COURT OF APPEALS**

**THIRTEENTH DISTRICT OF TEXAS**

**CORPUS CHRISTI - EDINBURG**

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**ROY WILLIAMS,**

**Appellant,**

**v.**

**GARY UDASHEN,**

**Appellee,**

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**On appeal from the 36th District Court  
of Bee County, Texas.**

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**MEMORANDUM OPINION**

**Before Chief Justice Valdez and Justices Benavides and Longoria  
Memorandum Opinion by Chief Justice Valdez**

Appellant Roy Williams, proceeding pro se, attempted to perfect an appeal from a judgment entered by the 36th District Court of Bee County, Texas in cause number B-17-1413-CV-A. The judgment in this case, signed on March 26, 2018, dismissed appellant's claims against appellee Gary Udashen pursuant to Chapter 14 of the Texas Civil Practice and Remedies Code. See TEX. CIV. PRAC. & REM. CODE ANN. § 14.003 (West, Westlaw through 2017 1st C.S.) (providing for the dismissal of certain claims arising from inmate

litigation). Appellant did not file a motion for new trial. Appellant filed his notice of appeal on May 3, 2018.

Without a timely notice of appeal, this court has no jurisdiction to consider an appeal. *Wilkins v. Methodist Health Care Sys.*, 160 S.W.3d 559, 564 (Tex. 2005); *Baker v. Baker*, 469 S.W.3d 269, 272 (Tex. App.—Houston [14th Dist.] 2015, no pet.). Generally, a notice of appeal must be filed within thirty days after the final judgment or appealable order is signed. TEX. R. APP. P. 26.1(a)(1). The deadline to file a notice of appeal is extended to ninety days after the judgment is signed if any party timely files a motion for new trial, motion to modify the judgment, motion to reinstate, or, under certain circumstances, a request for findings of fact and conclusions of law. *See id.* R. 26.1(a); TEX. R. CIV. P. 329b(a),(g).

The time to file a notice of appeal may also be extended if, within fifteen days after the deadline to file the notice of appeal, a party properly files the notice of appeal and a motion to extend time for the filing. *See* TEX. R. APP. P. 10.5(b), 26.3. A motion for extension of time is necessarily implied when an appellant, acting in good faith, files a notice of appeal beyond the time allowed by rule 26.1, but within the fifteen-day grace period provided by Rule 26.3 for filing a motion for extension of time. *See Verburgt v. Dorner*, 959 S.W.2d 615, 617–18, 619 (1997) (construing the predecessor to Rule 26). However, the appellant must provide a reasonable explanation for the late filing: it is not enough to simply file a notice of appeal. *Id.*; *Felt v. Comerica Bank*, 401 S.W.3d 802, 806 (Tex. App.—Houston [14th Dist.] 2013, no pet.); *Woodard v. Higgins*, 140 S.W.3d 462, 462 (Tex. App.—Amarillo 2004, no pet.).

Pursuant to Texas Rule of Appellate Procedure 26.1, appellant's notice of appeal was due on April 25, 2018, but it was not filed until May 3, 2018. Appellant did not file a motion for extension of time to file his notice of appeal; however, such a motion is implied because the notice of appeal was filed within the fifteen-day window provided by the appellate rules. Nevertheless, appellant did not provide a reasonable explanation for the late filing.

On May 8, 2018, the Clerk of this Court notified appellant that it appeared that his appeal had not been timely filed so that steps could be taken to correct the defect, if it could be done. The Clerk advised appellant that the appeal would be dismissed if the defect was not corrected within ten days from the date of receipt of this Court's letter. To date, appellant has not filed a response to this Court's notice.

The Court, having examined and fully considered the documents on file, appellant's failure to timely perfect his appeal, and appellant's failure to respond to this Court's notice, is of the opinion that the appeal should be dismissed for want of jurisdiction. Accordingly, we dismiss the appeal for want of jurisdiction. See TEX. R. APP. P. 42.3(a)(c).

**/s/ Rogelio Valdez**  
ROGELIO VALDEZ  
Chief Justice

Delivered and filed the  
7th day of June, 2018.