



NUMBER 13-23-00350-CV

COURT OF APPEALS

THIRTEENTH DISTRICT OF TEXAS

CORPUS CHRISTI – EDINBURG

IN THE INTEREST OF K.S.H., A CHILD

**On appeal from the 329th District Court
of Wharton County, Texas.**

MEMORANDUM OPINION

**Before Justices Tijerina, Silva, and Peña
Memorandum Opinion by Justice Silva**

Appellant filed a motion for rehearing of our memorandum opinion issued on August 31, 2023, dismissing his appeal for want of jurisdiction. We deny appellant's motion for rehearing, withdraw our original memorandum opinion, and substitute this memorandum opinion for our original one.

Appellant H.H. attempts to appeal the trial court's order of May 18, 2023, terminating the parent-child relationship between he and K.S.H. Appellant's notice of

appeal was filed on August 3, 2023, outside of the twenty-day filing requirement for cases involving termination of the parent-child relationship. See TEX. R. APP. P. 26.1(b), 28.4(a)(1). On August 8, 2023, the Clerk of the Court notified appellant of the defect and directed him to correct the defect within ten days, if possible, or appeal would be dismissed. On August 16, 2023, the Court received the return receipt signed by appellant, demonstrating that appellant received the Court's notice on August 11, 2023. Appellant filed an amended notice of appeal with the Wharton County District Clerk's office on August 24, 2023.¹

Although appellant asserts that he did not receive notice of the judgment until July 24, 2023, see TEX. R. CIV. P. 306a(4), he did not comply with Texas Rule of Civil Procedure 306a(5), which requires that the party who received late notice of a judgment “to prove in the trial court, on sworn motion and notice, the date on which the party or his attorney first either received a notice of the judgment or acquired actual knowledge of the signing and that this date was more than twenty days after the judgment was signed.” TEX. R. CIV. P. 306a(5). Moreover, appellant's amended notice of appeal fell outside of the ninety-day period during which appellant could extend the period to file post-judgment motions. See *id.*; TEX. R. APP. P. 2. see also *Krussow v. Garcia*, No. 13-20-00179-CV, 2020 WL 7253395, at *2 (Tex. App.—Corpus Christi—Edinburg Dec. 10, 2020, pet. denied) (mem. op.).

¹ Appellant's amended notice of appeal was attached to a brief filed with this Court on September 18, 2023, but was not forwarded by the Wharton County District Clerk to this Court.

Accordingly, the appeal is dismissed for want of jurisdiction. See *id.* R. 26.1(b), 28.4(a)(1), 42.3(a), (c).

CLARISSA SILVA
Justice

Delivered and filed on the
5th day of October, 2023.