

**NO. 12-08-00474-CR**

**IN THE COURT OF APPEALS**

**TWELFTH COURT OF APPEALS DISTRICT**

**TYLER, TEXAS**

***STEPHEN R. PORTER,***  
***APPELLANT***

§ ***APPEAL FROM THE 124TH***

***V.***

§ ***JUDICIAL DISTRICT COURT OF***

***THE STATE OF TEXAS,***  
***APPELLEE***

§ ***GREGG COUNTY, TEXAS***

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***MEMORANDUM OPINION***  
***PER CURIAM***

This appeal is being dismissed for want of jurisdiction. Appellant pleaded guilty to the offense of aggravated assault causing bodily injury, and punishment was imposed in open court on June 19, 2008. In a criminal case when, as here, no motion for new trial is filed, the notice of appeal must be filed within thirty days after the day sentence is imposed or suspended in open court. *See* TEX. R. APP. P. 26.2(a). Consequently, Appellant's notice of appeal was due on July 21, 2008. *See id.* However, Appellant filed his notice of appeal on December 10, 2008. Recognizing that his notice of appeal was untimely, Appellant also filed a motion for an extension of time to file the notice of appeal. An appellate court may extend the time to file a notice of appeal if, within fifteen days after the deadline for filing the notice of appeal, the party files in the trial court his notice of appeal and files in the appellate court a motion complying with Texas Rule of Appellate Procedure 10.5(b). TEX. R. APP. P. 26.3. Because Appellant's notice of appeal and motion for extension of time were not filed on or before August 5, 2008 (fifteen days after July 21, 2008), this court has no authority to extend the time for filing his notice of appeal.

Appellant's notice of appeal is untimely, which leaves us without jurisdiction over the appeal. Furthermore, this court has no authority to allow the late filing of a notice of appeal except as provided by rule 26.3. *See Slaton v. State*, 981 S.W.2d 208, 210 (Tex. Crim. App. 1998) (per

curiam); *Olivo v. State*, 918 S.W.2d 519, 523 (Tex. Crim. App. 1996). Consequently, Appellant's motion for extension of time to file his notice of appeal is overruled, and this appeal is ***dismissed for want of jurisdiction***.

Opinion delivered December 10, 2008.

*Panel consisted of Worthen, C.J., Griffith, J., and Hoyle, J.*

(DO NOT PUBLISH)