

**NO. 12-09-00023-CR**

**IN THE COURT OF APPEALS**

**TWELFTH COURT OF APPEALS DISTRICT**

**TYLER, TEXAS**

***JEFFERY L. CONWAY,***  
***APPELLANT***

§ ***APPEAL FROM THE 217TH***

***V.***

§ ***JUDICIAL DISTRICT COURT OF***

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

§ ***ANGELINA COUNTY, TEXAS***

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

This appeal is being dismissed for want of jurisdiction. Appellant was convicted of aggravated assault, and sentence was imposed on October 10, 2008.

Texas Rule of Appellate Procedure 26.2 provides that an appeal is perfected when notice of appeal is filed within thirty days after the day sentence is imposed or suspended in open court unless a motion for new trial is timely filed. TEX. R. APP. P. 26.2(a)(1). Where a timely motion for new trial has been filed, notice of appeal shall be filed within ninety days after the sentence is imposed or suspended in open court. TEX. R. APP. P. 26.2(a)(2). Appellant did not file a motion for new trial. Therefore, his notice of appeal was due to have been filed on or before November 10, 2008. However, Appellant did not file his notice of appeal until December 3, 2008 and did not file a motion for extension of time to file his notice of appeal as permitted by Texas Rule of Appellate Procedure 26.3. *See* TEX. R. APP. P. 26.3 (appellate court may extend time for filing notice of appeal if, within fifteen days after deadline for filing notice of appeal, appellant files notice of appeal in trial court and motion complying with Texas Rule of Appellate Procedure 10.5(b) in appellate court).

On January 20, 2009, this court notified Appellant that the information filed in this appeal does not include a notice of appeal filed within the time allowed by rule 26.2 or a timely motion for an extension of time as permitted by rule 26.3. Appellant was further informed that his appeal would

be dismissed unless the information in this appeal was amended, on or before January 30, 2009, to show the jurisdiction of this court. On February 9, 2009, in response to this court's January 20, 2009 notice, Appellant filed a motion for extension of time to file his appeal. This motion is untimely because it was not filed within fifteen days after the notice of appeal was due, i.e., November 25, 2008, as required by rule 26.3.

Because this court has no authority to allow the late filing of a notice of appeal except as provided by Rule 26.3, the appeal must be dismissed. *See Slaton v. State*, 981 S.W.2d 208, 210 (Tex. Crim. App. 1998). Accordingly, Appellant's motion for extension of time is overruled, and the appeal is *dismissed for want of jurisdiction*.

Opinion delivered February 25, 2009.

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

(DO NOT PUBLISH)