

NO. 12-09-00365-CV

IN THE COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT

TYLER, TEXAS

***2006 HARLEY DAVIDSON MOTORCYCLE § APPEAL FROM THE 273RD
VIN # 1HD1BWB136Y036149,
APPELLANT***

V. § JUDICIAL DISTRICT COURT OF

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

§ SAN AUGUSTINE COUNTY, TEXAS

***MEMORANDUM OPINION
PER CURIAM***

This appeal is being dismissed for want of jurisdiction pursuant to Texas Rule of Appellate Procedure 42.3(a). The trial court's judgment was signed on July 10, 2009. Under rule of appellate procedure 26.1, the notice of appeal must be filed within thirty days after the judgment is signed. However, Appellant filed a motion for new trial. *See* TEX. R. APP. P. 26.1(a) (providing that notice of appeal must be filed within ninety days after judgment signed if any party timely files motion for new trial). Therefore, his notice of appeal was due to have been filed no later than October 8, 2009. Appellant's notice of appeal was filed on October 28, 2009. Because Appellant's notice of appeal was not filed on or before October 8, 2009, it was untimely, and this court has no jurisdiction of the appeal.

On November 5, 2009, this court notified Appellant pursuant to Texas Rules of Appellate Procedure 37.1 and 42.3 that his notice of appeal was untimely and there was no timely motion for an extension of time to file the notice of appeal as permitted by Texas Rule of Appellate Procedure 26.3. Appellant was further informed that unless the

record was amended on or before November 16, 2009 to establish the jurisdiction of this court, the appeal would be dismissed. The deadline for responding to this court's notice has expired, and Appellant has not established this court's jurisdiction or otherwise responded to the notice.

Because this court is not authorized to extend the time for perfecting an appeal except as provided by Texas Rules of Appellate Procedure 26.1 and 26.3, the appeal is ***dismissed for want of jurisdiction***. See TEX. R. APP. P. 42.3(a).

Opinion delivered November 18, 2009.

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

(PUBLISH)