

NO. 12-11-00284-CR

IN THE COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT

TYLER, TEXAS

*CHARLES LEE FAULK,
APPELLANT*

§

APPEAL FROM THE 349TH

V.

§

JUDICIAL DISTRICT COURT

*THE STATE OF TEXAS,
APPELLEE*

§

HOUSTON COUNTY, TEXAS

***MEMORANDUM OPINION
PER CURIAM***

This appeal is being dismissed for want of jurisdiction. Appellant was convicted of aggravated sexual assault of a child and was sentenced to imprisonment for seven years.

Texas Rule of Appellate Procedure 26.2 provides that an appeal is perfected when notice of appeal is filed within thirty days after sentence is imposed in open court. TEX. R. APP. P. 26.2(a)(1). When, as here, a motion for new trial is filed, the notice of appeal must be filed within ninety days after sentence is imposed in open court. TEX. R. APP. P. 26.2(a)(2). Sentence was imposed in open court on June 8, 2011, and Appellant timely filed a motion for new trial. Therefore, Appellant's notice of appeal was due to have been filed on or before September 6, 2011. However, Appellant did not file his notice of appeal until September 12, 2011, 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 September 21, 2011, this court notified Appellant that his notice of appeal was untimely and that there was no timely motion for an extension of time to file the notice of appeal as permitted by Rule 26.3. Appellant was further informed that the appeal would be dismissed

unless, on or before October 3, 2011, the information filed in this appeal was amended to show the jurisdiction of this court. Appellant's counsel has responded to the September 21, 2011 notice, but has not shown the jurisdiction of this court.

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); *Olivo v. State*, 918 S.W.2d 519, 522 (Tex. Crim. App. 1996). Accordingly, the appeal is *dismissed for want of jurisdiction*.

Opinion delivered October 12, 2011.

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

(DO NOT PUBLISH)