

**NO. 12-13-00007-CR**

**IN THE COURT OF APPEALS**

**TWELFTH COURT OF APPEALS DISTRICT**

**TYLER, TEXAS**

*JOSEPH EARL LOVELY,  
APPELLANT*

§

*APPEAL FROM THE 3RD*

*V.*

§

*JUDICIAL DISTRICT COURT*

*THE STATE OF TEXAS,  
APPELLEE*

§

*ANDERSON COUNTY, TEXAS*

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***MEMORANDUM OPINION  
PER CURIAM***

This appeal is being dismissed for want of jurisdiction. Appellant was convicted of unlawful possession of a firearm by a felon and sentenced to imprisonment for ten years. His sentence was suspended, and he was placed on community supervision for ten years. Later, the State filed a motion to revoke Appellant's community supervision, and Appellant pleaded "true" to two paragraphs of the motion. After a hearing, the trial court found that Appellant had violated the terms of his community supervision, revoked his community supervision, and sentenced him to imprisonment for ten years.

In a criminal case, the notice of appeal must be filed within thirty days after sentence is imposed or within ninety days after that date if a timely motion for new trial is filed. TEX. R. APP. P. 26.2(a). Appellant's sentence was imposed on August 24, 2012, and he timely filed a motion for new trial. Therefore, his notice of appeal was due to have been filed no later than November 26, 2012. However, Appellant did not file his notice of appeal until January 8, 2013. Because Appellant's notice of appeal was not filed on or before November 26, 2012, it was untimely, and

this court has no jurisdiction of the appeal.

Along with his notice of appeal, Appellant also filed a motion for extension of time to file his notice of appeal. *See* TEX. R. APP. P. 26.3. According to Rule 26.3, 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 appealing party files (1) a notice of appeal in the trial court and (2) a motion for extension of time in the appellate court. *See id.* Here, the deadline for filing Appellant's notice of appeal was November 26, 2012. Therefore, under Rule 26.3, his motion for extension of time must have been filed not later than December 11, 2012. Because Appellant did not file his motion until January 8, 2013, it was untimely and must be overruled.

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, we overrule Appellant's motion for extension of time to file his notice of appeal and *dismiss* the appeal *for want of jurisdiction*. *See* TEX. R. APP. P. 42.3(a).

Opinion delivered January 16, 2013.

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

(DO NOT PUBLISH)



**COURT OF APPEALS  
TWELFTH COURT OF APPEALS DISTRICT OF TEXAS  
JUDGMENT**

**JANUARY 16, 2013**

**NO. 12-13-00007-CR**

**JOSEPH EARL LOVELY,**

Appellant

V.

**THE STATE OF TEXAS,**

Appellee

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Appeal from the 3rd Judicial District Court  
of Anderson County, Texas. (Tr.Ct.No. 29110)

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THIS CAUSE came to be heard on the appellate record; and the same being considered, it is the opinion of this court that this court is without jurisdiction of the appeal, and that the appeal should be dismissed.

It is therefore ORDERED, ADJUDGED and DECREED by this court that this appeal be, and the same is, hereby **dismissed for want of jurisdiction**; and that this decision be certified to the court below for observance.

By *per curiam* opinion.

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