

NO. 12-13-00037-CV

IN THE COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT

TYLER, TEXAS

**CHARLES F. SCOTT, III,
APPELLANT**

§

APPEAL FROM THE 402ND

V.

§

JUDICIAL DISTRICT COURT

**WOOD COUNTY COMMISSIONERS COURT,
APPELLEE**

§

WOOD 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 October 16, 2012. Under rule of appellate procedure 26.1(a), unless Appellant timely filed a motion for new trial or other postjudgment motion that extended the appellate deadlines, his notice of appeal was due to have been filed "within 30 days after the judgment [was] signed," i.e., November 15, 2012. Appellant filed a request for findings of fact and conclusions of law. However, findings of fact and conclusions of law are not proper when, as here, the appeal is from a summary judgment, and a request for them does not extend the time in which to file a notice of appeal. *Linwood v. NCNB Tex.*, 885 S.W.2d 102, 103 (Tex. 1994). Consequently, Appellant's notice of appeal was due on November 15, 2012.

Appellant filed his notice of appeal on February 7, 2013. Because the notice of appeal was not filed on or before November 15, 2012, the notice was untimely, and this court has no jurisdiction to consider the appeal.

On February 7, 2013, this court notified Appellant pursuant to Texas Rule of Appellate Procedure 42.3(a) that his notice of appeal was untimely. Appellant was further informed that if

the record was not amended on or before February 19, 2013, to establish the jurisdiction of this court, the appeal would be dismissed.

The February 19, 2013 deadline has now passed, and Appellant has not shown the jurisdiction of this court or otherwise responded to its February 7, 2013 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 February 28, 2013.

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

(PUBLISH)



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

FEBRUARY 28, 2013

NO. 12-13-00037-CV

CHARLES F. SCOTT, III,

Appellant

V.

WOOD COUNTY COMMISSIONERS COURT,

Appellee

Appeal from the 402nd Judicial District Court
of Wood County, Texas. (Tr.Ct.No. 2012-202)

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.