

NO. 12-13-00259-CR
IN THE COURT OF APPEALS
TWELFTH COURT OF APPEALS DISTRICT
TYLER, TEXAS

NIJINSKI TYWON MURPHY,
APPELLANT

§ ***APPEAL FROM THE 420TH***

V.

§ ***JUDICIAL DISTRICT COURT***

THE STATE OF TEXAS,
APPELLEE

§ ***NACOGDOCHES COUNTY, TEXAS***

MEMORANDUM OPINION
PER CURIAM

This appeal is being dismissed for want of jurisdiction. The trial court revoked Appellant's community supervision and, on May 8, 2013, sentenced him in open court to imprisonment for eight years.

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). Appellant did not file a motion for new trial. Therefore, his notice of appeal was to have been filed no later than June 7, 2013. Appellant did not file his notice of appeal until August 7, 2013, 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). Consequently, Appellant's notice of appeal was untimely.

On August 20, 2013, 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 August 30, 2013, the information filed in this appeal was amended to show the jurisdiction of this court. The deadline has passed, and Appellant has neither shown the jurisdiction of this court nor otherwise responded to its August 20, 2013 notice.

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 September 11, 2013.

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

(DO NOT PUBLISH)



COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT OF TEXAS

JUDGMENT

SEPTEMBER 11, 2013

NO. 12-13-00259-CR

NIJINSKI TYWON MURPHY,
Appellant
V.
THE STATE OF TEXAS,
Appellee

Appeal from the 420th District Court
of Nacogdoches County, Texas (Tr.Ct.No. F0916943)

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 J., Hoyle.