IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. PD-0870-18

JAMES E. WILLIAMS, Appellant

v.

THE STATE OF TEXAS

ON STATE'S PETITION FOR DISCRETIONARY REVIEW FROM THE SECOND COURT OF APPEALS TARRANT COUNTY

WALKER, J., delivered the opinion of the Court in which KEASLER, HERVEY, RICHARDSON, NEWELL, and KEEL, JJ., joined. KELLER, P.J., and YEARY and SLAUGHTER, JJ., concurred.

O P I N I O N

James E. Williams, Appellant, timely filed a motion for new trial, and he filed his notice of appeal 71 days after sentence was imposed in open court but 52 days after the trial court entered a nunc pro tunc order that Appellant later challenged on appeal. The question in this case asks: if a defendant timely files a motion for new trial and, while the motion for new trial is pending, the trial court enters a nunc pro tunc order, must a defendant seeking to challenge the nunc pro tunc order file

notice of appeal within 30 days after the nunc pro tunc order or 90 days after sentence is imposed or suspended in open court? Under Texas Rule of Appellate Procedure 26.2(a), a defendant's notice of appeal must be filed:

> (1) within 30 days after the day sentence is imposed or suspended in open court, or after the day the trial court enters an appealable order; or
>
> (2) within 90 days after the day sentence is imposed or suspended in open court if the defendant timely files a motion for new trial.

Tex. R. App. P. 26.2(a). We hold that, because Appellant timely filed a motion for new trial, his notice of appeal was timely, and we affirm the judgment of the court of appeals.

I — Post-Trial Timeline

Appellant was charged in a two-count indictment with aggravated kidnapping and attempted aggravated kidnapping. The jury found Appellant guilty of the lesser included offense of attempted kidnapping, a state jail felony.[1] After the punishment phase of the trial, the jury assessed the maximum sentence for a state jail felony of two years and a fine of $10,000,[2] and the trial court imposed the sentence in open court on October 6, 2016. The trial court informed Appellant that he had a right to appeal and he could do so by filing a notice of appeal within 30 days. Additionally, the trial court told Appellant that he would not be getting credit for time spent in jail despite counsel's argument that time credit was required.[3] Accordingly, the written judgment, signed and entered on

---

[1] *See* TEX. PENAL CODE Ann. §§ 20.03(c), 15.01(d).

[2] *See id.* § 12.35(a), (b).

[3] The trial court relied on former article 42.12 § 15(h)(2) in effect at the time (re-enacted as TEX. CODE CRIM. PROC. Ann. art. 42A.559(c)(1)), which provided that a judge *may* give, to a defendant required to serve in a state jail felony facility, credit for time served in county jail from the time of arrest and confinement until sentencing. Act of May 29, 1993, 73rd Leg., R.S., ch. 900, § 4.01, sec. 15(h)(2), 1993 Tex. Gen. Laws 3586, 3732 (repealed 2015).

October 10, did not give Appellant credit for time already spent in jail. The written judgment also provided that sex offender registration requirements did not apply to Appellant and did not include the age of the victim at the time of the offense, even though the evidence at trial showed that the victim was eleven years old at the time of the offense.

On October 13, Appellant filed a "Motion for New Punishment Trial and Motion in Arrest of Judgment" in which he argued that the punishment was contrary to the law and the evidence and that he was entitled to time credit.[4] On October 24, Appellant filed another "Motion for New Trial" and a "Motion for Judgment Nunc Pro Tunc." Both motions reasserted Appellant's claim for time credit,[5] and both motions included a business records affidavit from the Tarrant County Sheriff's Office showing the time spent in jail.

On October 25, the trial court entered a "Nunc Pro Tunc Order Correcting Minutes of the Court." In this order, instead of giving Appellant his requested time credit, the trial court amended the judgment to show that the victim was under 14 years of age at the time of the offense and that sex offender registration requirements applied to Appellant.

On October 26, the State filed a "Response to Motion for Judgment Nunc Pro Tunc,"

Defense counsel argued that time credit was required under article 42.03 § 2(a)(1). *See* TEX. CODE CRIM. PROC. Ann. art. 42.03 § 2(a)(1) (providing that "[i]n all criminal cases the judge of the court in which the defendant is convicted shall give the defendant credit on the defendant's sentence for the time that the defendant has spent . . . in jail for the case.").

[4] This motion argued that time credit was required under article 42.03.

[5] In these motions, Appellant argued that time credit was required pursuant to our holding in *Ex parte Harris*, 946 S.W.2d 79, 80 (Tex. Crim. App. 1997), in which we held that a defendant is entitled to pretrial time credit where he was unable to post bond and received the maximum sentence.

agreeing that Appellant was entitled to time credit.[6] On October 27, Appellant filed a "First Amended Motion for Judgment Nunc Pro Tunc" urging, again, his claim for time credit. On October 28, the trial court entered a "Judgment Nunc Pro Tunc" amending the judgment to give Appellant the time credit he sought.

On December 16, Appellant filed a notice of appeal. On appeal, Appellant challenged the validity of the trial court's October 25 nunc pro tunc order imposing sex offender registration requirements. Appellant argued that the change was more than a clerical correction and thus not appropriate for a nunc pro tunc order. Appellant also argued that he was entitled to notice and a hearing before the trial court could impose sex offender registration requirements. The State argued that Appellant's December 16 notice of appeal was untimely. According to the State, Appellant's notice of appeal was due within 30 days after the date of the challenged October 25 order—November 28. The court of appeals disagreed and determined that, because Appellant timely filed a motion for new trial, the deadline to file a notice of appeal was extended to 90 days after sentencing—January 4, 2017. *Williams v. State*, No. 02-17-00001-CR, 2018 WL 3468458 at *3 (Tex. App.—Fort Worth July 19, 2018) (mem. op., not designated for publication). On the merits of Appellant's issues, the court of appeals concluded that the trial court's order was not erroneous because sex offender registration was required as a result of Appellant's offense of conviction, and the order was either an appropriate exercise of the trial court's plenary power over its judgment or a mere clerical change. *Id.* at *4–*5. The court of appeals also held that, because sex offender

---

[6] The State's response relied upon our opinion in *Ex parte Bates*, 978 S.W.2d 575, 577 (Tex. Crim. App. 1998), in which we distinguished *Harris* because the defendant in *Bates* did not receive the maximum sentence and his time of confinement would not exceed the maximum even if the pretrial jail time was added to the term of the sentence. The State pointed out that Appellant's case was unlike *Bates* because Appellant received the maximum sentence.

registration was required by statute, Appellant was not entitled to notice and a hearing before the requirements were imposed. *Id.* at *5. As a result, the court of appeals affirmed the trial court's judgment, including the nunc pro tunc orders. *Id.*

The State filed a petition for discretionary review, claiming that the court of appeals was incorrect for two reasons. First, the State objected to a discussion in the court of appeals's opinion regarding nunc pro tunc orders and a trial court's plenary jurisdiction. Second, the State objected to the court of appeals's conclusion that Appellant's motion for new trial extended the deadline for filing notice of appeal.

II — What the Court of Appeals Said About Nunc Pro Tunc Orders and Plenary Power

The State's first issue complains about a portion of the court of appeals's opinion in which the court of appeals discussed whether the trial court's first and second nunc pro tunc orders were truly "nunc pro tunc orders." The pertinent passage of the court of appeals's opinion states:

> The jurisdictional puzzle in this appeal appears to have been heightened by the parties' and the trial court's misnomers of the actions the trial court took in the first and second nunc pro tunc orders. Nunc pro tunc orders or judgments generally are reserved for actions taken outside a trial court's plenary power, requiring a trial court to rely on its inherent authority to make the record reflect what previously and actually occurred during its plenary power. *See, e.g.*, *Alvarez v. State*, 605 S.W.2d 615, 617 (Tex. Crim. App. [Panel Op.] 1980); *Ware v. State*, 62 S.W.3d 344, 354–55 (Tex. App.—Fort Worth 2001, pet. ref'd). A trial court may correct only clerical errors in a nunc pro tunc order or judgment precisely because it lost plenary power and, thus, jurisdiction to correct judicial errors:
>
> > The Rules of Appellate Procedure allow a trial court to modify, correct or set aside judgment and orders through motions for new trial, motions to arrest judgment and motions for judgment nunc pro tunc. Rule 36 [now, Rule 23] vests a trial court with the authority to correct mistakes or errors in a judgment or order after the expiration of the court's plenary power, via entry of a judgment nunc pro tunc. A judgment nunc pro tunc, which literally means "now for then," may not be used to correct "judicial" errors, i.e., those errors which are a product of judicial reasoning or determination. Instead,

> nunc pro tunc orders may be used only to correct clerical errors in which no judicial reasoning contributed to their entry, and for some reason were not entered of record at the proper time.

State v. Bates, 889 S.W.2d 306, 309 (Tex. Crim. App. 1994) (citations omitted). This reasoning is further supported by the fact that nunc pro tunc proceedings regarding a trial court's judgment and sentence may be had "at any time" but only if a new trial was not granted, the judgment was not arrested, or the defendant did not appeal. *See* Tex. R. App. P. 23.1. In other words, only if the trial court's plenary power to determine the case has expired.

Here, the trial court continued to have plenary power over its October 6 judgment at the time it entered the first and second nunc pro tunc orders. *See generally Ex parte Matthews*, 452 S.W.3d 8, 13 (Tex. App.—San Antonio 2014, no pet.) (discussing plenary power and postjudgment motions). Therefore, because the trial court's two post-October 6 orders were not nunc pro tunc orders (despite being labeled as such) but were appropriate exercises of its plenary power over its judgment, the cases relied on by the State, allowing for a timely appeal under Rule 26.2(a)(1) after a nunc pro tunc order is entered far outside of the trial court's plenary power, are inapposite to the case at hand.

Williams, 2018 WL 3468458 at *4.

According to the State, the court of appeals held that, because the trial court's "nunc pro tunc order" was entered while the trial court retained plenary power, it could not have been a nunc pro tunc order, because a trial court can issue a nunc pro tunc order only after it loses plenary power, and a trial court cannot issue a nunc pro tunc order to correct its judgments while the trial court has plenary power. The State's position is, "In short, the Second Court of Appeals erred in holding that the trial court did not have the authority to enter the Nunc Pro Tunc Order while it still had plenary power." State's Br. on the Merits at 25.[7]

We do not think that the court of appeals's discussion has as much import as the State argues.

---

[7] According to Appellant's brief, he "takes no side . . . concerning whether a trial court has an inherent power to enter an order nunc pro tunc during the period in which it retains plenary power." Appellant's Reply Br. on the Merits at 10 n.1.

The court of appeals, by its opinion, did not hold that the trial court did not have authority to enter the order, whether it was correctly termed a "nunc pro tunc order" or, perhaps, an "order modifying or correcting the judgment." Indeed, the court of appeals affirmed the trial court's action. The court of appeals concluded that, because sex offender registration was required by statute, the trial court's order was proper either as a clerical correction "appropriate even for a nunc pro tunc order" or "an appropriate exercise of the trial court's plenary power over its judgment." *Id.* at *4, *5. The court of appeals upheld the trial court's action as an exercise of its plenary jurisdiction to correct both clerical and judicial errors in the judgment. The court of appeals did not hold that the trial court lacked the authority to correct the judgment.

If, perhaps, the court of appeals had decided that the "nunc pro tunc" label of the trial court's order was controlling, and the court of appeals had consequently determined that, because the trial court still had plenary jurisdiction, the nunc pro tunc order was therefore unauthorized, that situation would present the issue the State is concerned about. But those are not the facts of this case.

Finally, the State's argument imputes precedential value to the court of appeals's unpublished memorandum opinion. By designating the opinion as a memorandum opinion, the court of appeals itself must not have considered the opinion as establishing some new rule of law, or altering or modifying an existing rule of law. *See* Tex. R. App. P. 47.4(a). And if there was any doubt, the court of appeals's decision to not publish its opinion reflects its intent to not establish a precedent. *See* Tex. R. App. P. 47.7(a). The State's concern—that the court of appeals stripped trial courts of their authority to correct their judgments—is unfounded. The State's first ground for review is overruled.

III — Timeliness of Notice of Appeal

We next turn to the State's second ground for review. As for why it matters whether the trial

court's orders were properly labeled "nunc pro tunc orders," the State points to our opinions in *Blanton* and *Smith* in which we stated that a nunc pro tunc order is an "appealable order" within the meaning of the second clause of Rule 26.2(a)(1). *Blanton v. State*, 369 S.W.3d 894, 903–04 (Tex. Crim. App. 2012); *Smith v. State*, 559 S.W.3d 527, 535 (Tex. Crim. App. 2018). The State argues, as it did to the court of appeals, that the timeliness of a defendant's notice of appeal for an appealable order is exclusively governed by the second clause of Rule 26.2(a)(1) relating to appealable orders. In other words, if a defendant wants to appeal issues related to an appealable order, the timeliness of his notice of appeal is measured only from the date that the appealable order was entered and never from the date that sentence is imposed or suspended in open court. This would be so regardless of when the appealable order is entered. It would also be so regardless of whether notice of appeal is otherwise timely if measured from the date sentence is imposed or suspended in open court. As a result, because nunc pro tunc orders are appealable orders, the State would have us hold that the timeliness of a notice of appeal, where the defendant seeks to challenge a nunc pro tunc order, is measured from the date of the nunc pro tunc order, rendering Appellant's notice of appeal in this case untimely.[8]

The court of appeals was unswayed by the State's argument. The court of appeals considered not just the second clause of Rule 26.2(a)(1) relating to appealable orders, but all of Rule 26.2(a). Based upon a plain language reading of the rule, the court of appeals concluded that if a defendant

---

[8] Appellant argues that the trial court's nunc pro tunc orders, entered while the trial court still had plenary power, were interlocutory orders and thus not appealable on their own. *See Apolinar v. State*, 820 S.W.2d 792, 794 (Tex. Crim. App. 1991) ("The courts of appeals do not have jurisdiction to review interlocutory orders unless that jurisdiction has been expressly granted by law."). As a result, Appellant contends that they do not constitute "appealable orders" within the meaning of the second clause of Rule 26.2(a)(1).

files a motion for new trial, under Rule 26.2(a)(2) he has 90 days to file notice of appeal, even if the defendant seeks to appeal an appealable order.

When construing court rules, we attempt to effectuate the plain language of the rule unless there are important countervailing considerations. *Nava v. State*, 415 S.W.3d 289, 306 (Tex. Crim. App. 2013). Unlike the standard for statutory construction,[9] we are not bound by the rule's plain language and can consider extratextual factors, even if the text of the rule is not ambiguous or does not lead to absurd results. *Hayden v. State*, 66 S.W.3d 269, 272 n.13 (Tex. Crim. App. 2001); *Nava*, 415 S.W.3d at 306. Extratextual factors include, but are not limited to, the object sought to be attained, common law or former provisions, and the consequences of a particular construction. *Nava*, 415 S.W.3d at 306. Still, because we should attempt to effectuate the plain language of the rule, "the plain language is a good place to begin." *Henderson v. State*, 962 S.W.2d 544, 552 (Tex. Crim. App. 1997); *see also Ludwig v. State*, 931 S.W.2d 239, 241 (Tex. Crim. App. 1996) ("Even so, it is best to begin our analysis with the language of [the rule] itself.").

The rule at issue in this case, Rule of Appellate Procedure 26.2(a), provides:

> 26.2. Criminal Cases
>
> (a) *By the Defendant.* The notice of appeal must be filed:
>
> > (1) within 30 days after the day sentence is imposed or suspended in open court, or after the day the trial court enters an appealable order; or
> >
> > (2) within 90 days after the day sentence is imposed or suspended in open court if the defendant timely files a motion for new trial.

Tex. R. App. P. 26.2(a). The court of appeals, in its opinion, considered the literal text of the rule. *Williams*, 2018 WL 3468458 at *3. Emphasizing the rule's use of "or" between subsections (a)(1)

---

[9] *Boykin v. State*, 818 S.W.2d 782, 785–86 (Tex. Crim. App. 1991).

and (a)(2) and the rule's provision that subsection (a)(2) applies "if the defendant timely files a motion for new trial," the court of appeals determined that Appellant's timely filed motions for new trial extended the deadline and classified his appeal as falling under subsection (a)(2). *Id.* To support this determination, the court of appeals noted that nothing in Rule 26.2(a)(2) limited the 90 day deadline to the substance of the issues raised on appeal or to the grounds raised in the motion for new trial. *Id.* Instead, "[a]ll that is required is that 'the defendant *timely* files *a* motion for new trial.'" *Id.* (emphases in original). As a result, the court of appeals concluded that, based on his timely filed motions for new trial, Appellant's notice of appeal was due within 90 days after sentence was imposed in open court and his notice of appeal was timely. *Id.*

The court of appeals's conclusion that, if there is a timely filed motion for new trial, subsection (a)(2) applies, is reasonable. However, as the State points out, we previously held in *Blanton* that nunc pro tunc orders are "appealable orders," which are specifically mentioned in subsection (a)(1). As such, the State maintains that subsection (a)(1), and only subsection (a)(1), applies to notices of appeal relating to nunc pro tunc orders.

Under the State's interpretation of the rule, the timeliness of a defendant's notice of appeal depends upon whether the defendant seeks to appeal an appealable order, and, if so, it does not matter whether there is a timely filed motion for new trial. If this is what the rule intended, it could have been written to say:

> 26.2. Criminal Cases
>
> (a) *By the Defendant.* The notice of appeal must be filed:
>
> > (1) within 30 days after the day sentence is imposed or suspended in open court, or within 90 days after the day sentence is imposed or suspended in open court if the defendant timely files a motion for new trial; or

> (2) within 30 days after the day the trial court enters an appealable order.

Or, to make it explicit that the identity of the thing being appealed as an "appealable order" dictates which provision applies, the rule could read:

> 26.2. Criminal Cases
>
> (a) *By the Defendant.* The notice of appeal must be filed:
>
> > (1) within 30 days after the day sentence is imposed or suspended in open court, or within 90 days after the day sentence is imposed or suspended in open court if the defendant timely files a motion for new trial, if the defendant desires to appeal an issue relating to the judgment of conviction or sentence; or
> >
> > (2) within 30 days after the day the trial court enters an appealable order, if the defendant desires to appeal an issue relating to such appealable order entered by the trial court.

Obviously, this is not how the rule was written. Under the plain language of the rule, timeliness does not depend on whether the thing being appealed is an "appealable order."

Despite the plain language of the rule, the State, relying on *Smith*, argues that our opinion in that case dictates the resolution of this case. Specifically, the State quotes our conclusion that:

> The appeal of an order granting shock probation is independent of an appeal from adjudication and sentencing. It is a separate appeal of a separate appealable order, with its own appellate timetable. It requires a separate notice of appeal.

Smith, 559 S.W.3d at 536–37. The State contends that, because a nunc pro tunc order is also an "appealable order," the same reasoning of *Smith* applies. The State concedes, however, that the timing of the filings is distinguishable because Smith filed his motion for shock probation over five months after his conviction and sentence, whereas the nunc pro tunc order in this case was signed within three weeks of Appellant's conviction. But the State argues that the timing does not matter

because of the bare fact that a nunc pro tunc order is an "appealable order."

We find *Smith* distinguishable, both on the critical factor of timing (as the State concedes) and on the fact that *Smith* was specifically concerned with orders granting shock probation.

The difference in timing between *Smith* and the instant case—five months versus three weeks—illustrates why the second clause of Rule 26.2(a)(1) relating to appealable orders exists in the first place. We explained in *Smith* that the reason why appeals from appealable orders are separate is because none of those appealable orders arise in the "ordinary" appellate context. *Smith*, 559 S.W.3d at 535. When an appealable order arises outside of the "ordinary" appellate context, issues related to the order cannot be added to the direct appeal because at that point it is too late to include those issues with the direct appeal. Therefore, they must be raised in a separate appeal. A defendant wanting to initiate that separate appeal would need to file a separate notice of appeal to show that he desires to appeal. Because the order the defendant wants to appeal arose outside of the "ordinary" appellate context, the regular deadlines for notice of appeal obviously can no longer apply. A new 30-day window must exist to measure the timeliness of the new notice of appeal, and this is what the second clause of Rule 26.2(a)(1) provides.

The instant case before us is different because the trial court's nunc pro tunc order did, in fact, arise in the "ordinary" appellate context. Our statement in *Smith* that "[n]one of these appeals arise in the 'ordinary' appellate context" did not contemplate the possibility that a trial court would enter a nunc pro tunc order mere weeks after the pronouncement of sentence, at a time when the defendant, who is already evaluating whether he wants to appeal his case, can still take the nunc pro tunc order into account in his decision to appeal. The intent behind the second clause of Rule 26.2(a)(1) relating to appealable orders is not served by requiring a separate notice of appeal when

the order is a nunc pro tunc order entered in the "ordinary" appellate context.

The other difference between *Smith* and the instant case is that in *Smith* we were specifically concerned with whether an appeal of an order granting shock probation is independent of an appeal from adjudication and sentencing; we were not concerned with whether appeals of appealable orders generally are independent of an appeal from adjudication and sentencing.

Finally, the State argues that the court of appeals's "holding that a nunc pro tunc order is a separate appealable order, except when it is not," will lead to absurd results and more confusion in nunc pro tunc law.[10] State's Br. on the Merits at 32–33. Appellant also makes a confusion-based argument, but he argues that it would be the State's proposed construction of Rule 26.2(a) that will lead to confusion. Appellant argues that the State's proposed construction will require defendants to file two appeals for what is essentially the same cause of action. Appellant claims that such a scheme lays a trap for unwary defendants, including defendants who may be unrepresented by counsel at the time that a nunc pro tunc order is entered.

On balance, we agree with Appellant. As discussed above, the plain language of the rule tells a defendant that if he files a motion for new trial, he has 90 days to file his notice of appeal. The plain language does not tell him that the 90 days are specifically reserved for an appeal of the judgment of conviction and sentence and that if the trial court enters a nunc pro tunc order, he needs to file a separate notice of appeal and he has 30 days from the date of that order to file the notice. In *Henderson*, we recognized that we should attempt to effectuate the plain language of the rules because "attorneys are guided by the rules." *Henderson*, 962 S.W.2d at 552. The same must be said

---

[10] The State, in its brief, does not explain how the court of appeals's construction of the rule is absurd or confusing.

for *pro se* defendants, as well.

It suffices to say that the rules involving notice of appeal should not be construed to set up traps for a defendant. As we stated in *Harkcom*:

> The Rules of Appellate Procedure should be construed reasonably, yet liberally, so that the right to appeal is not lost by imposing requirements not absolutely necessary to effect the purpose of a rule.
>
> A person's right to appeal a civil or criminal judgment should not depend upon traipsing through a maze of technicalities. We do not require "magic words" or a separate instrument to constitute notice of appeal.

Harkcom v. State, 484 S.W.3d 432, 434 (Tex. Crim. App. 2016) (citations omitted). Our sister Court, the Supreme Court of Texas, has also emphasized that the policy embodied in the Rules of Appellate Procedure disfavors disposing of appeals based upon harmless procedural defects. *Verburgt v. Dorner*, 959 S.W.2d 615, 616 (Tex. 1997).

We are persuaded that Rule 26.2(a) should be liberally construed in a way that does not set traps for unwary criminal defendants. This can be done without playing havoc with the plain language of the rule. Rule 26.2(a), by its own terms, delineates three separate scenarios governing the timing of when a notice of appeal must be filed. First, a notice of appeal must be filed within thirty days after the day sentence is imposed or suspended in open court. Second, a notice of appeal must be filed within 30 days after the day the trial court enters an appealable order. Third, a notice of appeal must be filed within 90 days after the day sentence is imposed or suspended in open court if the defendant timely files a motion for new trial. We hold that in situations in which two or more of the above scenarios apply, the scenario which gives the criminal defendant the most time in which to file the notice of appeal will control.

Thus, we return to Appellant's case. The trial court imposed Appellant's sentence in open

court on October 6, 2016. At that point in time, to be timely under Rule 26.2(a)(1), Appellant had 30 days to file his notice of appeal. Because the 30th day fell on a Saturday, notice was due the following Monday: November 7. *See* Tex. R. App. P. 4.1(a). Appellant also had 30 days to file a motion for new trial; therefore, any motion for new trial was also due by November 7. *See id.* R. 21.4(a). Appellant filed his first motion for new trial on October 13 and his second motion for new trial on October 24; either motion for new trial was timely. Because Appellant timely filed a motion for new trial, under Rule 26.2(a)(2), the 30-day deadline for filing notice of appeal was extended to 90 days. Appellant therefore had until January 4, 2017, to file notice of appeal. Appellant's December 16, 2016, notice of appeal was timely.

IV — Conclusion

In conclusion, we hold that under Rule of Appellate Procedure 26.2(a), if a defendant timely files a motion for new trial and, while the motion for new trial is pending, the trial court enters an appealable order, the defendant must file notice of appeal by the later of the date that is 90 days after sentence is imposed or suspended in open court, or the date that is 30 days after the date the trial court entered the appealable order. Here, Appellant timely filed a motion for new trial, giving rise to the 90-day window. The end of the 90 day window was later than the expiration of the 30 days after the appealable order was entered. Appellant's notice of appeal was timely. The judgment of the court of appeals is affirmed.

Delivered: June 24, 2020
Publish